WEST BOUNTIFUL MUNICIPAL CODE

Title 1 GENERAL PROVISIONS

Chapters:

Chapter 1.01 CODE ADOPTION

Sections:

1.01.010 State rules, specifications, standards or requirements adopted.

Whenever a state statute is adopted as a city ordinance, and the state statute permits or requires the adoption of rules, specifications, standards or requirements by a department or agency of the state of Utah, said rules, specifications, standards or requirements are included as part of these ordinances. (Prior code § 2-8-4)

Chapter 1.04 GENERAL PROVISIONS

Sections:

1.04.010 Definitions.

In the construction of these ordinances and all ordinances amendatory thereof the following words and terms shall have the meaning herein ascribed to them, unless such definition or construction would be inconsistent with the manifest intent of the city council or contrary to the context of the ordinance:

"**Agent**" means a person acting on behalf of another.

"**City**" means the city of West Bountiful and/or the properties bounded within its corporate limits.

"**City council**" means the legislative or governing body of the city and the mayor.

"**Fee schedule**" means the schedule adopted periodically by resolution of the city council which sets forth the various fees charged by the city.

"**Highway**" includes all roads, alleys, lanes, streets, courts, places, trails and bridges laid out or erected as such by the public, or dedicated or abandoned to the public, or made such in actions for the partition of real property.

"**Knowingly**" imports only a knowledge that the facts exist which bring the act or omission within the provisions of these ordinances. It does not require any knowledge of the unlawfulness of such an act or omission.

"**Malice**" or "**maliciously**" imports a wish to vex, annoy or injure another person, or an intent to do a wrongful act, established either by proof or by presumption of law.

"**Municipality**," unless otherwise indicated, means the city of West Bountiful.

"**Negligent**" imports a want of such attention to the nature or probable consequences of the act or omission as a prudent man ordinarily bestows in acting in his or her own concern. The words "negligent," "neglect," "negligence" and "negligently" import the same want of consideration.

"**Oath**" includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

"**Occupant**," when applied to a building or land, includes any person who occupies the whole or any part of such building or land whether alone or with others.

"**Offense**" means any act forbidden by any provision of these ordinances, or the omission of any act required by the provisions of these ordinances.

"**Operator**" means the person in charge of any operation, business or profession.

"**Owner**," when applied to a building or land, includes any part-owner, joint owner, tenant in common, joint tenant or lessee of the whole or part of such building or land.

"**Person**" includes any individual, partnership, firm, company, corporation, association, trust, estate, governmental entity; or any other form of association, organization or other legal entity and its legal representatives, agents or assigns.

"**Property**" includes both real and personal property.

"**Retailer**," unless otherwise specifically defined, relates to the sale of goods, merchandise, articles or things direct to the consumer.

"**Street**" includes all roads, alleys, lanes, highways, courts, places, squares, trails, bridges and sidewalks laid out or erected as such by the public, or dedicated or abandoned to the public, or made such in action for the partition of real property.

"**These ordinances**" means the West Bountiful Municipal Code, 2000 and codifications and amendments which are successors thereto.

"**Violate**" or "**violation**" means to contravene or not observe.

"**Wholesaler**," unless otherwise specifically defined, means the sale in quantity of goods, merchandise, articles or things to persons who purchase for the purpose of resale.

"**Willful**" or "**willfully**," when applied to the intent with which an act is done or omitted, implies simply a purpose or willingness to commit the act or make the omission referred to. It does not require any intent to violate law, to injure another, or to acquire an advantage. (Editorially amended during 2000 codification; prior code § 1-3-1)

1.04.020 Rules of construction.

In the construction of these ordinances and all ordinances amendatory thereof, the following rules shall apply except when such construction would be inconsistent with the manifest intent of the city council or contrary to the context of the ordinance:

A. General Rule. All words and phrases shall be construed and understood according to the common use and understanding of the language; the technical words and phrases and such other words and phrases as may have acquired a particular meaning in law shall be construed and understood according to such particular meaning.

B. Gender. When any subject matter, party or person is described or referred to by words importing the masculine, the feminine as well as the masculine, and associations and bodies as well as individuals, shall be deemed to be included.

C. Number. The singular number shall include the plural and the plural the singular.

D. Reasonable Time. In all cases when any ordinance requires that an act be done in a reasonable time or that reasonable notice be given, such reasonable time for such notice shall be deemed to mean such time as may be necessary for the expeditious performance of such duty or compliance with such notice.

E. Shall. The word "shall" is mandatory and not merely directory.

F. Tense. The present tense shall include the future tense and the future tense shall include the present tense.

G. Time. The time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last is a holiday or a Sunday, and then it is also excluded. Whenever any act of a secular nature other than a work of necessity or mercy is appointed by law or contract to be performed upon a particular day, which day falls upon a holiday, such acts may be performed upon the next succeeding business day with the same effect as if it had been performed upon the day appointed. (Prior code § 1-3-2)

Chapter 1.08 CORPORATE NAME AND SEAL

Sections:

1.08.010 Corporate name.

The name of this municipality shall be "West Bountiful City." However, to designate the municipal character of the corporation, the name may be stated "West Bountiful, a Municipal Corporation." (Prior code § 1-1-1)

1.08.020 Corporate seal.

The corporate seal of West Bountiful is described as follows: The impression is one and three-fourths inches in diameter; is inscribed in the outer circle, "West Bountiful City, Davis County, Utah;" contains the words "Corporate Seal" in the center circle. (Prior code § 1-1-2)

Chapter 1.12 RIGHT OF ENTRY

Sections:

1.12.010 Entry allowed when.

Whenever any officer or employee of the city is authorized to enter any building or premises for the purpose of making an inspection to enforce any ordinance, the officer or employee may enter such building or premises at all reasonable times to inspect the same; provided, that the officer or employee shall effect entry in the manner provided in Section 1.12.020 of this chapter, except in emergency situations, or when consent of the person having charge or control of such building or premises has been otherwise obtained. (Ord. 260-99 (part): prior code § 2-2-5(1))

1.12.020 Consent to entry required.

If the building or premises to be inspected is occupied, the authorized officer or employee shall first present proper credentials and demand entry; and if such building or premises is unoccupied, the officer or employee shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and demand entry. If consent to entry is not given, the authorized officer or employee shall have recourse to every remedy provided by law to secure entry. (Ord. 260-99 (part): prior code § 2-2-5(2))

1.12.030 Authority of chapter provisions.

This chapter shall be controlling over any other ordinance or part of an ordinance on the same subject, whether heretofore or hereafter adopted, unless such ordinance or part of an ordinance provides differently by an express reference to this chapter. Notwithstanding any other ordinance of this city, whether heretofore or hereafter adopted, it shall not be a violation of this chapter to refuse or fail to consent to an entry for inspection. (Ord. 260-99 (part): prior code § 2-2-5(3))

Chapter 1.16 GENERAL PENALTY

Sections:

1.16.010 Designated.

A. Where ordinances or state law specify an offense is a Class C misdemeanor, it is punishable with a fine up to seven hundred fifty dollars ($750.00), imprisonment up to ninety (90) days, or both. Where an offense is an infraction, it shall be punishable by a fine up to seven hundred fifty dollars ($750.00). (UCA 76-3-205., UCA 76-3-301 and UCA 76-3-204.)

B. In any case where there is a violation of any part of these ordinances, or where an act is declared in these ordinances to be unlawful, and no specific penalty is provided herein or under state law, the person violating the same shall be deemed guilty of a Class B misdemeanor and for any one offense be punished by a fine in any sum not over one thousand dollars ($1,000.00), or by imprisonment not to exceed six months, or by both. (UCA 76-3-205, UCA 76-3-301, UCA 76-204.)

C. In all cases where the same offense is made punishable or is created by different clauses or sections of these ordinances, the prosecuting officer may elect under which to proceed. However, not more than one recovery shall be had against the same person for the same offense; except that the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty from being enforced. (Ord. 264-00 (part); prior code § 1-4-1)

Title 2 ADMINISTRATION AND PERSONNEL

Chapters:

Chapter 2.04 FORM OF GOVERNMENT

Sections:

2.04.010 Form of government.

West Bountiful City is a city of the third class which is governed by a city council consisting of a mayor and five council members. (Prior code § 2-1-1)

2.04.020 Terms of office.

A. The offices of mayor and two council members shall be filled in municipal elections held in 1977. The terms shall be for four years. These offices shall be filled every four years in municipal elections.

B. The offices of the other three council members shall be filled in municipal elections held in 1979. The terms shall be for four years. These offices shall be filled every four years in municipal elections.

C. Vacancies to these offices shall be filled as provided by state law. (Prior code § 2-1-2)

Chapter 2.08 CITY COUNCIL

Sections:

2.08.010 City departments.

The administration of West Bountiful City shall be divided into such departments as the city council shall direct periodically by ordinance or resolution. (Prior code § 2-2-2)

2.08.020 Personnel policies and procedures.

Personnel policies and procedures may be adopted by the city council to regulate the rights and conduct of city employees. These policies and procedures may be set forth in a separate manual entitled, "West Bountiful City Personnel Policies and Procedures Manual." This manual, and revisions thereto, may be adopted by resolution of the city council. (Prior code § 2-4-1)

2.08.030 Time and place of regular council meetings.

The city council shall conduct two regular meetings each month, which shall be held on the first and third Tuesdays of each month at the West Bountiful City Office, 550 North 800 West, West Bountiful, Utah, which meetings shall begin promptly at seven thirty p.m., during mountain standard time, and at the hour of seven thirty p.m. during mountain daylight time. Other meetings shall be held as necessary in accordance with state law. Any order for a special meeting must have at least three hours notice to each member of the governing body not signing the order. (Ord. 264-00 (part): prior code § 2-8-1)

Chapter 2.12 CITY ADMINISTRATOR

Sections:

2.12.010 Office created.

There shall be an office of city administrator of West Bountiful City, which position and the duties thereof shall be as the city council periodically direct by ordinance pursuant to the provisions of Sections 10-3-901 and 10-3-813, Utah Code Annotated. (Prior code § 2-3-1)

2.12.020 Control.

The powers, duties, and functions of the city administrator shall be subject to the control of the city council. (Prior code § 2-3-2)

2.12.030 General duties.

The city administrator shall:

A. Have and exercise all powers and duties assigned to him periodically by the city council;

B. Cause the enforcement of all civil laws and ordinances within the city insofar as their enforcement is within the powers of the city;

C. Attend all meetings of the city council, and keep the council informed as to the affairs of the city, and recommend to the council such action as may be necessary or expedient for the welfare of the city; and

D. Have and exercise general control and supervision over all activities of the city. This control and general supervision shall include, but not be limited to, construction, maintenance, improvement, repair and replacement of all city properties, ditches, culverts, gutters, curbing, public buildings, streets, parks, playgrounds, ball parks, records and supplies. (Prior code § 2-3-3)

2.12.040 Office.

The city administrator shall maintain an office in the City Hall and shall spend such time in the performance of his or her duties as may be required periodically by direction of the city council. (Prior code § 2-3-4)

2.12.050 Employees.

The city administrator shall have and exercise all powers which are now or may hereafter be conferred by law upon the city in respect to the employment and removal of employees in all departments of the city. The administrator shall hire and discharge city personnel subject to the approval of the city council, and exercise general supervision over such employees. (Prior code § 2-3-5)

2.12.060 Contracts.

The city administrator shall examine all proposed contracts to which the city may be a party and shall, with the mayor, sign on behalf of the city any contract authorized and approved by the city council, except when the city council directs that some other officer or officers shall do so. It shall be the duty of the city administrator to see that all terms of any contract to which the city is a party are fully performed by all parties thereto. (Prior code § 2-3-6)

2.12.070 Purchases.

The city administrator shall be general purchasing agent of the city. Except when specific provision to the contrary is made by law or by the city council, he or she shall authorize all purchases of supplies, materials and equipment approved by the city council, in the manner prescribed by and subject to the limitations imposed by law and by that body. No purchases shall be made or obligations incurred excepting upon authorization of the city council, and no expense shall be incurred for a purpose requiring a prior appropriation unless the amount of such purchase is covered by an unexpended appropriation for the purpose. (Prior code § 2-3-7)

2.12.080 Budget officer.

The city administrator is designated the budget officer for the city and shall perform or cause to be performed all of the duties of such office as set forth in law, together with such other duties as the city council may periodically, by resolution, designate. (Prior code § 2-3-8)

2.12.090 Collector and comptroller.

The city administrator shall be ex officio city collector and city comptroller unless such offices, or either of them, are duly filled by appointment, and he or she shall perform the duties of each such office in the absence of either such appointed officer. (Prior code § 2-3-9)

2.12.100 Accounts.

It shall be the duty of the city administrator to keep current accounts showing at all times the fiscal condition of the city, including the current and anticipated expenses, appropriations, cash on hand and anticipated revenues of all municipal funds and accounts. The city administrator shall see to the collection of all money due the city. (Prior code § 2-3-10)

2.12.110 Inventories--Properties.

The city administrator shall keep a current inventory showing all real and personal property of the city and its location. He or she shall be responsible for the care and custody of all such property except that charged to the police department. This responsibility shall extend to all other equipment, buildings, parks and city property which is not by law assigned to some other officer or body for care and control. (Prior code § 2-3-11)

2.12.120 Reports and publications.

The city administrator shall publish, or cause to be published, all notices, ordinances, or other documents required by law to be published and to prepare, or cause to be prepared, all reports which the city or any of the officials thereof are required to prepare. (Prior code § 2-3-12)

2.12.130 Elections.

Except as otherwise provided by law with respect to the duties of a city recorder in relation to elections, the city administrator shall cause to be prepared all notices, ballots and election supplies necessary in connection with city elections. (Prior code § 2-3-13)

2.12.140 Maps and plats.

Unless otherwise provided by ordinance, the city administrator shall cause to be kept a complete set of maps and plats showing the location of all city utilities, municipal properties, streets and other public places as well as all lots or parcels of land subdivided according to law. (Prior code § 2-3-14)

2.12.150 Absence from city.

A. In the event the city administrator shall be absent from the city or incapacitated from performing the duties of his or her position, an officer or other person designated by the mayor may be authorized to act as administrator during such absence or incapacity; provided, however, that if such absence or incapacity shall extend for a period of ten (10) or more consecutive days, such designation shall be subject to the approval of the city council.

B. The powers, duties and functions of the office of city administrator shall be carried out by the city administrator who shall be a qualified person appointed by the city council. The city administrator need not be a resident of the city. The city administrator shall serve at the pleasure of the city council subject to removal at any time without cause, by a majority vote thereof.

   Before taking office, the city administrator shall furnish a fidelity bond in an amount to be determined by resolution of the city council, conditioned upon the faithful performance of his or her duties, with a corporation licensed to do business in the state of Utah as surety. Such bond shall be filed with the city recorder after being approved by the city council, and the premium for such bond shall be paid by the city.

C. Additional personnel may periodically be employed within the office of the city administrator by action of the city council. (Prior code § 2-3-15)

2.12.160 Salary.

The salary of the city administrator, and his or her assistant, shall be set periodically by resolution of the city council. (Prior code § 2-3-16)

2.12.170 Assistant.

There may be an assistant to the city administrator who may exercise all of the powers of the city administrator, subject to the supervision and control of the city administrator. This officer shall be known as the administrative assistant. (Prior code § 2-3-17)

Chapter 2.16 CITY OFFICERS

Sections:

2.16.010 City officers.

The following offices in West Bountiful City are created, appointments to which shall be made as otherwise provided by state law:

A. **Attorney**. The city may periodically employ one or more attorneys to perform the duties of city attorney. Any person so employed shall be an active member in good standing of the Utah Bar Association and shall be employed on a contract basis as the city council shall periodically direct.

B. **Building Inspector**. There shall be a building inspector who shall be:

1. In reference to all of the technical construction codes (e.g., the Uniform Building Code) in force in the city, the principal building official referred to therein; and

2. In reference to the West Bountiful zoning ordinance and the various land development regulations, an inspector.

The building inspector shall have and exercise all of the powers provided for such offices.

C. **Engineer**. The city may periodically employ one or more engineers to perform the duties of city engineer. Any person so employed shall be either the Davis County engineer or a licensed engineer employed on a contract basis, as the city council shall periodically direct. At no time shall the city engineer review for compliance with any provisions of these ordinances work prepared by himself or herself or any member of his or her firm.

D. **Recorder**. There shall be a city recorder who shall have all of the powers and perform all of the duties described by state law. The city recorder shall be appointed on or before the first Monday in February following a municipal election by the mayor, with the advice and consent of the city council. The city recorder shall, ex officio, be the city auditor and perform the duties of that office.

E. **Treasurer**. There shall be a treasurer who shall have all of the powers and perform all of the duties described by state law. The treasurer shall be appointed on or before the first Monday in February

following a municipal election by the mayor, with the advice and consent of the city council. (Prior code § 2-2-1)

Chapter 2.20 OFFICERS' BONDS

Sections:

2.20.010 Bonds.

Every officer of the city, whether elected or appointed, shall, before entering upon the duties of such office, execute a bond with good and sufficient sureties, payable to the city. The amount of this bond shall be set periodically by resolution of the city council.

Bonds of city councilmembers shall be approved by the mayor. The bonds of all other officers shall be approved by the city council. The premium charged by a corporate surety for any official bond shall be paid by the city. (Prior code § 2-8-2)

Chapter 2.24 JUSTICE COURT – Rescinded 321-10

Sections:

2.24.010 Creation.

There is created and established a city justice court and the office of judge thereof. This court shall be known as the West Bountiful City justice court. (Prior code § 2-6-1)

2.24.020 Place of holding court.

The justice court judge shall hold court in the city in a room or office located in the City Hall conducive and appropriate to the administration of justice. (Prior code § 2-6-2)

2.24.030 Powers of justice court judge.

The West Bountiful City justice court judge shall have and exercise all of the powers provided by law for a municipal justice court judge. (Prior code § 2-6-3)

Chapter 2.28 ELECTIONS

Sections:

2.28.010 Election procedure.

Municipal elections shall be held and conducted as provided in Chapter 5, Title 20A of the Utah Code Annotated. (Editorially amended during 2000 codification; prior code § 2-5-1)

2.28.020 Primary election system for nominating and electing candidates for municipal offices.

Election for mayor and council members shall be conducted according to the municipal election section of the Utah Code, reference 20A-9-404(1) and (2).

This section provides for the candidates for mayor and council members to be nominated at a primary election if required. A primary election will be held only when the number of candidates filing for an office exceeds twice the number to be elected. The candidates nominated at the primary election plus candidates that were not required to run in the primary are to be placed on the November ballot. (Ord. 237A-95 §§ 1, 2)

Chapter 2.32 BOARDS

Sections:

2.32.010 General rules.

Unless otherwise provided by law or these ordinances, the following rules shall apply to all city boards, commissions, councils, agencies, foundations and districts, all of which are hereinafter referred to as a "board."

A. Each board shall be an advisory board only.

B. Each board shall consist of seven members, each of whom shall serve a term of four years.

The terms of members shall be staggered. Members may be appointed to a term of less than four years when necessary to provide for staggered terms.

C. Board members shall be appointed by the mayor, with the advice and consent of the council.

D. Board members may be removed from office by the mayor, without cause.

E. Board members shall receive no compensation for their services, but may be reimbursed for reasonable expenses incurred in the performance of their duties.

F. Subject to the consent of the city council, the mayor shall appoint a chairperson and vice chairperson for each board. These persons shall each serve for a term of one year.

G. Meetings of each board may be called by:

1. The chairperson;

2. The vice-chairperson, if the chairperson is incapacitated or otherwise cannot act;

3. A majority of the members of the board; or

4. The mayor.

H. Each board may adopt reasonable rules by which it conducts its business.

I. This section does not apply to the board of adjustment or the planning commission. (Prior code § 2-8-5)

Chapter 2.36 PLANNING COMMISSION

Sections:

2.36.010 Terms of office--Appointment, compensation and removal.

A. There shall be a planning commission consisting of five members, which shall include four voting commissioners and a voting chairperson.

B. Members shall be appointed to four-year terms of office, except that members may be appointed to shorter terms when necessary to ensure staggered terms of office.

C. Members of the planning commission shall be appointed by the mayor, with the advice and consent of the city council.

D. The city council may fix compensation for members of the planning commission for meetings actually attended and may authorize their reimbursement for expenses actually incurred in the performance of their duties.

E. The city council may remove members of the planning commission from office for cause, but may not do so without a public hearing if such is requested by the member. (Ord. 264-00 (part); prior code § 9-2-1)

2.36.020 Operation.

A. The planning commission shall organize, operate and have all of the powers, duties and limitations described in state law for a planning commission.

B. The planning commission may adopt policies and procedures for the conduct of its meetings, the processing of applications, and for any other purposes considered necessary for its functioning. Before taking effect, these policies and procedures shall be approved by the city council. (Prior code § 9-2-2)

C. Planning commission meetings may be held only when there is a quorum present to carry out official action. A quorum, for the purposes of planning commission meetings, shall consist of three or more voting members who are present for voting decisions.

2.36.030 Appointment of Planning Commission Alternates.

Alternate members may be appointed to the planning commission. Such appointment shall be in the same manner as the appointment of a regular member. Alternate members may fully participate in the discussion, hearing and meetings; however, they shall not vote on any matter, unless needed to fill a vacancy during the absence of a regular member. Alternate members may receive compensation for meetings actually attended, and may be removed for cause following the procedure for removal of a regular member. (Amended by Ord. #304-08 on 10-7-2008)

Chapter 2.40 BOARD OF ADJUSTMENT

Sections:

2.40.010 Membership--Terms of office--Appointment--Compensation.

A. There shall be a board of adjustment consisting of five members and whatever number of alternates the city council shall authorize.

B. Members and alternate members of the board of adjustment shall be appointed to five-year terms of office, except that members and alternate members may be appointed to shorter terms of office when necessary to ensure that the term of only one member and one alternate member expires each year.

C. Members and alternate members of the board of adjustment shall be appointed by the mayor, with the advice and consent of the city council.

D. Members and alternate members of the board of adjustment shall serve without compensation, but the city council may authorize their reimbursement for expenses actually incurred in the performance of their duties. (Prior code § 9-3-1)

2.40.020 Operation--Appeals--Conditional use permits.

A. The board of adjustment shall organize, operate and have all of the powers, duties and limitations described in state law for a board of adjustment.

B. Appeals to the board of adjustment, and from the board of adjustment to the district court, shall be taken in the time and manner provided in state law.

C. Appeals from a decision of the planning commission regarding conditional use permits shall be heard and decided by the city council. While so acting, the city council shall be acting in an administrative capacity and rules described in state law for an appeal to a board of adjustment, and from a board of adjustment to the district court, shall apply to the city council. (Prior code § 9-3-2)

Chapter 2.44 HISTORIC PRESERVATION COMMISSION

Sections:

2.44.010 Purpose.

The city recognizes that the historical heritage of the West Bountiful community is among its most valued and important assets. It is therefore the intent of West Bountiful to identify, preserve, protect and enhance historic areas and sites lying within the city limits. (Ord. 236-94 § 1)

2.44.020 Established.

A Historic Preservation Commission is established by the city of West Bountiful with the following provisions:

A. The commission shall consist of a minimum of five voting members with a demonstrated dedication, interest, competence or knowledge in historic preservation, appointed by the city council for terms of not less than two years. The commission shall also have a non-voting representative from the planning and zoning commission and the city council.

B. To the extent available in the community, two commission members shall be professionals, as defined by National Park Service regulations, from the discipline of history, archaeology, planning, architecture or architectural history.

C. The commission shall meet at least once each month and conduct business in accordance with the Open Public Meeting laws of Utah. This includes public notification of meeting place, time and agenda items.

D. Written minutes of each commission meeting shall be prepared and made available for public inspection. (Ord. 236-94 § 2)

2.44.030 Commission duties.

The Historic Preservation Commission shall have the following duties:

A. Survey and Inventory Community Historic Resources. The Historic Preservation Commission shall conduct or cause to be conducted a survey of the historic, architectural and archaeological resources within the community. The survey shall be compatible with the Utah Inventory of Historic and Archaeological Sites. Survey and inventory documents shall be maintained and shall be open to the public. The survey shall be updated at least every ten (10) years.

B. Review Proposed Nominations to the National Register of Historic Places. The Historic Preservation Commission shall review and comment to the State Historic Preservation Officer on all proposed National Registry nominations for properties within the boundaries of West Bountiful City. When the Historic Preservation Commission considers a National Register nomination which is normally evaluated by professionals in a specific discipline and that discipline is not represented on the commission, the commission shall seek expertise in that area before rendering its decision.

C. Provide Advice and Information.

1. The Historic Preservation Commission shall act in an advisory role to other officials and departments of government regarding the identification and protection of local historic and archaeological resources.

2. The Historic Preservation Commission shall work toward the continuing education of citizens regarding historic preservation and community history.

D. Advise in the building, maintenance and rehabilitation of city-owned buildings and sites in the Historic District.

E. Apply for and administer grants as approved by the city council and other financial aid for historic preservation projects in the city.

F. Enforcement of State Historic Preservation Laws. The commission shall support the enforcement of all state laws relating to historic preservation. These include, but are not limited to: U.C.A. - 17A-3-1301 to 1306, The Historic District Act; U.C.A. 9-8-305, 307 and 308 regarding the protection of Utah antiquities; and U.C.A. 9-8-404 regarding notification of the State Historic Preservation Office of any known proposed action which will destroy or affect a site, building or object owned by the state of Utah and included on or eligible for the state of National Registers.

G. Act as a review committee for streetscapes, landscapes and architectural design within the historic districts.

H. Prepare guidelines for rehabilitation, new construction and landscape within the historic districts. (Ord. 236-94 § 3)

2.44.040 West Bountiful sites list.

The Historic Preservation Commission may designate a historic district and historic properties to the historic sites list as a means of providing recognition to and encouraging the preservation of historic properties in the community.

A. Criteria for Designation Properties to the West Bountiful Historic Sites List. Any district, building, structure, object or site may be designated to the historic sites list if it meets all the criteria outlined below:

1. It is located within the official boundaries of the city;

2. It is at least fifty (50) years old;

3. a. If it retains its historic integrity, in that there are no major alterations or additions that have obscured or destroyed the significant historic features. Major alterations that would destroy the historic integrity include, but are not limited to, changes in pitch of the main roof, enlargement or enclosure of windows on the principal facades, addition of upper stories or the removal of original upper stories, covering the exterior walls with non-historic materials moving the resources from its original location to one that it dissimilar to the original addition which significantly detract from or obscures the original form and appearance of the house when viewed from the public way.

b. If the property does not meet the integrity requirements outlined in subdivision (3)(a) of this subsection, it may still qualify for designation if it meets one of the following requirement for exception significance:

i. It is directly associated with events of historic significance in the community,

ii. It is closely associated with the lives of persons who were of historic importance to the community,

iii. It exhibits significant methods of construction or materials that were used within the historic period;

4. It has been documented according to the Utah State Historic Preservation Office standards for intensive level surveys (June 1993 version or subsequent revisions) and copies of that documentation have been placed in the local and state historic preservation files.

B. Designation Procedures. Any person, group or government agency may nominate a property for listing in West Bountiful historic sites list but proceedings cannot be initiated without written consent of the property owner. The nomination and listing procedures are as follows:

1. Completed intensive level survey documentation for each nominated property must be submitted in duplicate to the Historic Preservation Commission.

2. The commission will review and consider properly submitted nominations at its next scheduled meeting. The commission will notify the nominating party, either orally or in writing one week prior to the meeting that the nomination will be considered and will place that item on the agenda posted for the meeting. The one-week notification may be waived at the nominating party's option in order to accommodate "last-minute" submittals, though no nomination will be reviewed if it is submitted to the commission less than forty-eight (48) hours prior to the meeting.

3. The historic preservation commission will review the document for completeness, accuracy and compliance with the criteria for designating historic properties to the West Bountiful historic sites list and will make its decision accordingly.

C. Results of Designation to the Historic Sites List.

1. Owners of officially designated historic sites may obtain a historic site certificate from the Historic Preservation Commission. The certificate contains the historic name of the property, the date of designation, and signature of the mayor and the Historic Preservation Commission chairperson.

a. If a historic site is to be demolished or extensively altered, efforts will be made to document its physical appearance before that action takes place. The city will delay issuing a demolition permit for a maximum of fifteen (15) days and will notify a member of the Historic Preservation Commission, which will take responsibility for the documentation.

b. Documentation will include, at a minimum, exterior photographs (both black and white and color slides) of all elevations of the historic building. When possible, both exterior and interior measurements of the building will be made in order to provide an accurate floor plan drawing of the building.

c. The demolition permit will be issued after fifteen (15) days from the initial application whether or not the commission has documented the building. The permit may be issued earlier if the commission completes its documentation before the fifteen (15) day deadline.

d. The documentation will be kept in the commission's historic site files, which are open to the public.

D. Removal of Properties from the Historic Sites List. Properties which, in the opinion of the Historic Preservation Commission, no longer meet the criteria for eligibility may be removed from the historic sites list after review and consideration by the commission. (Ord. 236-94 § 7)

2.44.050 West Bountiful landmark register.

Significant historic properties may be designated to the historic landmark register for the purposes of recognizing their significance and providing incentives and guidelines for their preservation.

A. Criteria for Designating Properties to the West Bountiful Landmark Register. Any district, building, structure, object or site may be designated to the historical landmark register if it meets all the criteria outlined below.

1. It is located within the official boundaries of the city;

2. It is currently listed in the National Register of Historic Places and a copy of the approved National Register form has been placed in the local historic preservation files, or it has been officially determined eligible for listing in the Nation Register of Historic Places under the provision of 36 CAR 60.6(s). Properties listed on or determined eligible for the National Register must, in addition to retaining their integrity as defined in section 2.44.040(A)(3)(a), meet at least one of the following National Register criteria:

a. Associated with events that have made a significant contributions to the broad patters of our history,

b. Associated with the lives of persons significant in our past,

c. Embody the distinctive characteristics of a type, period or method of construction or that represent the work of a master, or that possess high artistic values, or the represent a significant and distinguishable entity whose components may lack individual distinction, or

d. Have yielded, or may be likely to yield, information important in prehistory or history (archeological sites, for example.)

3. It has been documented according to the Utah State Historic Preservation Office standards for Intensive Level Surveys (June 1993 version or subsequent revisions) or National Register standards and a copy of that documentation has been placed in the local historic preservation files.

4. The owner of the property approves of the action to designate his or her property to the historic landmark register and has submitted to the commission a written statement to that effect.

5. Historic Districts. Any district may be designated to the historical landmark register is a majority (over 50 percent) of the property owners in the proposed historic district is in favor of the designation or at least not opposed to it. Notice will be given to each affected property owner. Written objections from over 50 percent of the property owners will constitute lack of approval and will halt the designation process.

B. Designation Procedures.

1. Submittal to the commission of complete Intensive Level Survey or National Register of Historic Places documentation shall initiate the review process.

2. Upon receipt of the written request for designation, the commission chairperson shall arrange for the nomination to be considered at the next commission meeting, which shall be held at a time not to exceed thirty (30) days from the date the request was received.

3. The decision by the commission shall be based on the eligibility of the property in terms of meeting the Criteria for Designating Properties to the West Bountiful Historic Landmark Register. The commission shall forward its recommendation in writing to the city council within fourteen (14) days.

4. The city council may, by approval and passage of an appropriate resolution, designate properties to the historic landmark register. Following designation, a notice of such shall be mailed to the owners of record together with a copy of the ordinance codified in this chapter.

C. Notification and Recording of Designation.

When historic properties have been officially designated to the West Bountiful historic landmark register by the city council, the commission shall promptly notify the owners of those properties. The

commission shall record the historic landmark register status designation with the county recorder's office.

D. Results of Designation to the Historic Landmark Register.

1. Properties designated to the historic landmark register may receive special consideration in the granting of zoning variances or conditional use permits in order to encourage their preservation.

2. In the event of rehabilitation of the property, local building officials will consider waiving certain code requirements in accordance with Chapter 34 of the Uniform Building Code (1994 Edition), which deals with historic buildings, or the Uniform Code for Building Conservation, a special code for existing buildings.

3. Owners of historic landmarks may seek assistance from the Historic Preservation Commission in applying for grants or tax credit for rehabilitating their properties.

4. Any proposed construction, alteration, modification or demolition of exterior work is subject to the review and approval of the Historic Preservation Commission. The purpose of this review is to ensure the preservation of historic properties to the greatest degree possible. This review applies to individually designated landmark properties or any property, contributing or non-contributing, located in a landmark-designated historic district. This review applies only to exterior work which requires a building permit, sign permit, or demolition permit.

a. Application for permits pertaining to historic landmark properties shall be forwarded by the building inspector to the Historic Preservation Commission prior to their issuance.

b. A permit applicant, in order to obtain a permit from the building inspection division, shall file a request for a Certificate of Appropriateness with the commission on a form furnished by the commission.

c. At its next scheduled meeting, the commission shall review the application and proposed work for compliance with the Secretary of the Interior's "Standards for Rehabilitation", hereafter referred to as the "Standards" and any design guidelines recommended by the commission and adopted by the city council and will make a decision as to the approval or denial of the application (see Section 2.44.060).

d. The commission's decision shall be forwarded within three days to the city staff for its consideration. The recommendation must indicate which of the Standards the commission's decision was based on and, where appropriate a brief explanation. Copies of the decision shall be sent to the building inspector and the property owner at the same time.

e. Applicants whose proposed projects are found to be in non-compliance with this Title shall be offered a negotiating period of thirty (30) days, during which time the commission and applicant shall explore all options for an acceptable solution. These may include the feasibility of modifying the plans, using the historic landmark for

alternative purposes, and reselling the property to another party. If the Certificate of Historic Appropriateness is denied, the building official shall not issue any permits.

f. Claims of Economic Hardship. The commission may approve a waiver to a Certificate of Appropriateness for Rehabilitation or Demolition of a landmark property if the owner has presented substantial evidence demonstrating that unreasonable economic hardship will result from denial of the Certificate of Appropriateness.

i. Economic Hardship Criteria. In order to sustain a claim of unreasonable economic hardship, the commission may require the owner to provide information whether the property is capable of producing a reasonable return for the owner.

ii. Demonstration of economic hardship by the owner shall not be based on conditions resulting from willful or negligent acts by the owner, purchasing the property for substantially more than market value at the time of purchase, failure to perform normal maintenance and repairs, failure to diligently solicit and retain tenants, or failure to provide normal tenant improvements.

g. An applicant who has been denied any permit by the building official, based on the commission's refusal to issue a Certificate of Historic Appropriateness, may appeal that decision to the planning and zoning commission. The appeal must be made on or before thirty (30) days after the commission's decision. The Historic Preservation Commission's decision will be upheld unless found to be arbitrary, capricious or not based on substantial evidence. Any appeal of the planning and zoning commission determination must be made to the appropriate District Court of the State of Utah.

E. Removal of Properties from the Historic Landmark Register. Properties which, in the opinion of the Historic Preservation Commission, no longer meet the criteria for eligibility may be removed from the historic landmark register after review and consideration by the commission. The property owner shall be advised by mail of the Historic Preservation Commission meeting during which the removal will be considered. The owner will be notified of the decision of the commission and will have thirty (30) days to appeal the decision of the commission to the planning and zoning commission. However, nothing in this chapter shall be construed to prevent an owner from removing his or her property from the historic landmark register as the owner in his or her sole discretion shall deem appropriate. Further, the city shall not accept any liability whatsoever for an owner’s decision to remove property from the historic register.

F. Enforcement. The provisions of this section are subject to the enforcement provisions established in the Uniform Building Code, Uniform Code for Building Conservation, or in the Uniform Housing Code as adopted by West Bountiful. (Ord. 236-94 § 8)

2.44.060 Standards for rehabilitation.

The following standards for rehabilitation shall be used by the historic preservation commission and city council when determining the historic appropriateness of any application pertaining to historic landmark properties:

A. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

B. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterized a property shall be avoided.

C. Each property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

D. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

E. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

F. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive features, the new feature shall match the old in design, color, texture and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.

G. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

H. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

I. New additions, exteriors alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale and architectural features to protect the historic integrity of the property and its environment.

J. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired. (Ord. 236-94 § 9)

K. Any appeal of the rehabilitation decision to the planning and zoning commission must be made on or before thirty (30) days after the Historic Preservation Commission's decision. The Historic Preservation Commission’s decision will be upheld unless found to arbitrary, capricious or not based on substantial evidence. Any appeal of the planning and zoning commission determination must be made to the appropriate District Court of the State of Utah.

2.44.070 Standards for property development in the historic districts of West Bountiful City.

A. The Historic Preservation Commission shall determine the historic appropriateness for future streetscape plans within historic districts to include but not be limited to beautification projects,

squeeze zones, street lighting, plants and trees, bike lanes and the use of current roadside historic structures and/or markers.

B. The following standards are minimum requirements for any new developments within the historic districts. The existing historic district along 800 West shall be upgraded to the same streetscape regulations as monies become available and the city council deems the upgrades feasible.

1) Crosswalks: full-depth colored and stamped concrete shall be implemented in constructing crosswalks.

2) Parking strips: shall be established at a standard width of six (6) feet in total width.

3) Sidewalks: shall be established at a standard five (5) feet wide.

4) Street Lighting: period lighting, as recommended by the Historic Preservation Commission, shall be constructed and placed at an approximate spacing of five hundred (500) feet.

5) Trees: existing historical trees shall be retained whenever possible. Additional trees shall be planted in the parking strip approximately sixty (60) feet from each other at uniform intervals along the length of the historic district. The variety of the trees will be determined by the Historic Preservation Commission.

C. Unless expressly stated to the contrary in this chapter, all provisions of the West Bountiful City Building Code and Ordinances shall apply in addition to the provisions of the Historic Preservation Commission Ordinance. In the case of any direct conflict between this chapter and other provisions of the West Bountiful City Code or Ordinances, the more restrictive provision shall apply.

D. All new development plat maps must indicate that the development is located in the historic district. In addition, each building lot must be marked with an "R" next to the lot # on all plat maps submitted to the planning and zoning commission and the city council for approval and on the plat map filed with the county recorder. This "R" indicates to the buyer and to the contractor that the property has "restrictions" unique to the historic district and that additional procedures must be followed in the approval and construction phases.

2.44.080 Standards for new construction within the historic districts of West Bountiful City.

A. Review Process

1. Review Committee: The Historic Preservation Commission (hereinafter referred to as "the commission") shall act as the historic district design review committee. No dwelling or other building shall be erected or altered on any lot in the historic district without the review and recommendation of the construction plans by the commission. All construction plans and specifications shall include a plan showing the location of the proposed structure on the lot and a list of the proposed construction materials. Plans and materials shall be in harmony with the requirements of this ordinance as well as the exterior design of the existing structures in the historic district, compliance with which shall be determined by the commission.

2. The "seller" of a building lot or a home in the historic district must give prospective "purchaser" a "building packet" provided by the commission containing a copy of the Historic District Ordinance and a checklist of documents required to be submitted to the commission for review. The prospective "purchaser" of a building lot or an existing home in the historic district must sign for and acknowledge receipt of the "building packet" and execute a statement of their willingness to comply with the historic district building procedures at least 15 days before closing on the purchase of any lot or existing home in the historic district.

3. All plans and specifications submitted to the commission must be submitted in duplicate and accompanied by a written request for recommendation. The commission shall have 10 days to review the plans. The commission may employ the services of a licensed architect to review the plans for architectural authenticity in which case an additional 10 days will be required for the review. At the end of the review period the commission will either; (a) recommend the plans and specifications as submitted, or (b) notify the party making such request of any objections thereto (such objections to be specifically stated). If objections are noted, the requesting party may, within 14 days thereafter, resubmit a request for recommendation rectifying any such objections to the commission. The commission shall then have an additional 10 days after receipt of said revisions to recommend or deny said changes. The Historic Preservation Commission's recommendation or denial of submitted plans shall be in writing and returned to the party making a submission, together with a notation of recommendation or denial and the date thereof affixed to one copy of such plans and specification.

B. Design Standards

Objectives: To ensure historic appropriateness for new construction within the historic district. Projects shall be compatible in design, character, size, and proportion to existing "contributing" buildings in the district. New construction shall enhance the historic qualities and unique feeling of the historic areas of the city and shall not erode the character of the neighborhood.

1. Building Design. The West Bountiful historic district evolved over an approximate 100-year span and includes houses of many sizes and architectural styles. Lot sizes and setbacks are not consistent. These variations are part of the unique appeal of the area and should be respected and preserved as much as possible. New development in the historic district shall emulate this pattern by incorporating various size lots, various size houses, and various architectural designs appropriate to time period and area. There are fine architectural examples of Victorian, Prairie style, Craftsman, Bungalow, English, Temple/Greek Revival, and cottage styles in the historic district all of which are appropriate designs for new construction. In addition, many other architectural home designs built in Utah between 1848 and 1940 are appropriate.

2. Size. The size of the home shall correspond with the size of the lot. The house and all accessory buildings shall not cover more than 40% of the lot.

3. Height. One-story, one and one-half story (upper floor incorporated into the roof line), and two story homes (with an attic above the 2nd story) are appropriate. However, the height cannot be more than 35 feet above the curb level.

4. Exterior Facades. Brick is the predominant building material in the historic district. Therefore, the majority of houses should be brick with a fewer number of stone and clapboard homes. Appropriate materials for the outside walls of homes, garages, carriage houses and other outbuildings are brick, stone/cultured stone or wood/fiber-cement board (such as James Hardee). Contrasting materials can be used for pillars, lintels, quoins, keystones, trims, etc. but must receive positive recommendation by the commission. Brick wainscot is not historical in West Bountiful and shall not be used. Vinyl siding, aluminum siding, stucco panels will not be allowed. Walls, roof shapes, windows, doors, porches, and ornamental detail shall be historically correct for the home's architectural style and period of history.

5. Windows. Windows shall be appropriate in style and size for the home's period of architecture and must be uniform throughout the house. Windows must be recessed at least two (2) inches.

6. Colors. Shall be historically appropriate to the home's architectural style and period of history.

7. Garages and other outbuildings. All houses shall be constructed with a garage for not less than two (2) vehicles and not more than three (3) vehicles. Garages must be the same architectural style and color as the home. Garages can be (1) detached and located toward the back of the lot, (2) attached and flush to the house or extend up to five feet in front of the house if the garage is built to appear as part of the house and has a side or back opening, (3) attached with a front opening if the front of the garage is set back at least five feet from the front of the house. The garage and other outbuildings shall be subordinate to the house and shall conform to the architectural style of the home.

8. Fences. No privacy fences are allowed from the front of the home to the street. However, low fences in wood/wood composite, ornamental iron, brick, rock, natural hedges, shrubs or any combination of the above can be used in the front yard as part of the landscaping. Privacy fencing for side and back yards must be per City Code Section 17.44.180. All fences shall be appropriate to the style of the home and must receive positive recommendation by the commission.

9. Landscape. Driveways, sidewalks, steps, lighting, etc. shall be historically appropriate to the home's architectural style and period of history.

C. Appeal.

1. Any appeal to the planning and zoning commission must be made on or before thirty (30) days after the Historic Preservation Commission's decision. The Historic Preservation Commission's decision will be upheld unless found to be arbitrary, capricious, or not based on substantial evidence. Any appeal of the planning and zoning commission determination must be made to the appropriate District Court of the State of Utah.

(2.44 Amended May 1st, 2007; Ord. 295-07)

Chapter 2.48 POLICE DEPARTMENT

Sections:

2.48.010 Function.

The police department, by and through its sworn officers, shall be responsible for preserving the public peace, preventing crime, detecting and arresting criminal offenders, protecting the rights of persons and property, regulating and controlling motorized and pedestrian traffic, training sworn personnel and providing and maintaining police records and communication systems. (Prior code § 2-2-3(A))

2.48.020 Duties of members.

The chief of the police department shall have command over all the officers, members and employees of the department and shall exercise and perform such duties as may be prescribed by the city council. The chief of police shall be under the direction, control and supervision of the mayor. (Prior code § 2-2-3(B))

Chapter 2.52 PUBLIC WORKS DEPARTMENT

Sections:

2.52.010 Functions.

The public works department shall be responsible for the following:

A. Streets and public facilities, including the operation and maintenance of streets, parkways, sidewalks, all street related drainage ways, and other public ways and facilities;

B. Fleet management, including the management and coordination of all vehicles and service centers, the management and dispensing of fuel for city use, and the maintenance of records indicating the performance and costs of all city vehicles; and

C. Water resources, including the acquisition, transportation, storage, treatment and distribution of potable water to the city and its customers within designated service areas; the operation and management of all reservoirs, pump stations, water mains, city fire hydrants and appurtenances; the operation and maintenance of flood control structures, gates, canals and ditches necessary for the proper control and distribution of irrigation water and all non-street related flood water; and maintenance and delivery to the city engineer of accurate records of the locations and other essential information on mains, valves, reservoirs, wells, fire hydrants, ditches and other related facilities and water rights owned by the city. (Prior code § 2-2-4(A))

2.52.020 Duties.

The director of the public works department shall be responsible for ensuring that the department fulfills its responsibilities, as provided above. The public works director shall be under the direction and supervision of the city administrator. In the absence of a duly appointed director of public works, the city administrator shall act in his or her stead. The city may establish a public works department which shall be responsible for providing and maintaining the street and water systems of the city. The department shall also be responsible for maintaining the public properties of the city.

The public works department shall be supervised by an appointed director who shall be answerable to the city administrator or, in the absence of a city administrator, to the mayor. (Prior code § 2-2-4(B))

Chapter 2.56 GOVERNMENT RECORDS MANAGEMENT AND ACCESS

Sections:

2.56.010 State Act adopted.

Except as otherwise provided in this section, the Utah Government Records Access and Management Act (as the same may be amended periodically by the Utah State Legislature) is adopted as a West Bountiful City ordinance, to the extent that the same applies to a city of the third class. In the event of conflict, the provisions of this section shall be interpreted in a manner consistent with said Act. (Prior code § 2-9-1(A))

2.56.020 Classifications adopted.

All city records shall be classified as follows:

A. All records described in Section 63-2-301, Utah Code Annotated, which must be classified as public records shall be classified as public records.

B. All records described in Section 63-2-302, Utah Code Annotated, which may be classified as private records shall be classified as private records.

C. All records described in Section 63-2-303, Utah Code Annotated, which may be classified as confidential records shall be classified as confidential records.

D. All records described in Section 63-2-304, Utah Code Annotated, which may be classified as protected records shall be classified as protected records. (Prior code § 2-9-1(B))

2.56.030 City recorder.

The city recorder shall do the following:

A. Apply the classifications above to all city records, which may be done at the time a request for access to city records is made, or prior thereto as the resources of the city permit;

B. Determine in response to a request for access to city records whether, pursuant to the provisions of this chapter, the request should be permitted and the terms under which it should be permitted. The city recorder may be advised by the city administrator or the city attorney in making this determination. (Prior code § 2-9-1(C))

2.56.040 Fees.

The following apply with respect to fees:

A. The city council shall adopt and periodically revise a schedule of fees for compiling or copying records. In the absence thereof, the city recorder shall charge reasonable fees for compiling or copying records, the amount of which shall not exceed the city's actual cost thereof.

B. If a person requests to copy more than thirty (30) pages of records, the city may require that the copying be done at a private photocopying business and that the requester pay the expense of a city custodian transporting the necessary city records to the premises of the private photocopying business.

C. If computer programming is required to respond to a request for access to records, the requester shall, in advance, pay the reasonable cost thereof. (Prior code § 2-9-1(D))

2.56.050 Response times.

The city shall respond to a request for access to city records in the times described in Section 63-2-204, Utah Code Annotated (including times applicable to extraordinary circumstances); provided, however, that for good cause directly related to city resources which are insufficient to respond to a request, the city may have an additional period of time not exceeding ten (10) days in which to respond to a request. (Prior code § 2-9-1(E))

2.56.060 Appeals.

Any person aggrieved by a decision of the city recorder in relation to matters described in this section shall appeal the same to the city council in the time and manner provided in Section 63-2-403, Utah Code Annotated, for appeals to a records committee. The city council shall hear and decide appeals in the time and manner provided in said section except that the city council shall not be required to hear any appeal earlier than the next regularly scheduled meeting of the city council. (Prior code § 2-9-1(F))

Chapter 2.60 ADMINISTRATIVE HEARINGS

Sections:

2.60.010 Procedure.

Any administrative action by West Bountiful City for which a hearing is required and for which no other procedure is provided shall, except as otherwise expressly provided by ordinance, conform to the following:

A. Administrative hearings shall be conducted by the mayor or by one or more hearing examiners appointed by the mayor.

B. Reasonable notice stating time, place and subject matter shall be given to the parties involved, prior to any hearing. No hearing, or the result thereof, shall be invalidated by any defect in giving notice to the parties involved, unless a denial of due process is caused thereby.

C. At the request of any party, witnesses shall be sworn by the officer conducting the hearing.

   This officer may be either the mayor or a hearing examiner, as provided above. Minutes of the hearing shall be kept by a secretary appointed by the mayor. At the request and expense of any party, a hearing may be recorded by a certified shorthand reporter. Hearings may be tape-recorded only under the direction and with the consent of the hearing officer. The hearing officer shall adopt written findings and enter a written order or decision.

D. Any decision entered by a hearing examiner may be vacated by the mayor within fifteen (15) days after the entry thereof. The mayor shall thereafter conduct such further hearings, if any, as he shall

deem necessary, and based upon evidence received at all hearings on the issues, the mayor shall adopt written findings and enter a written order or decision.

E. A written order or decision of a hearing examiner, if not vacated by the mayor, and a written order or decision of the mayor, shall constitute a final decision from which an appeal (for purposes of review and not for purposes of a trial de novo) may be taken to a court of law, in the time and manner otherwise provided by law. (Prior code § 2-8-3)

Chapter 2.64 APPEALS

Sections:

(Ord. 339-12)

2.64.010 Scope and Purpose.

This chapter applies generally to any appeal from an administrative decision that is not otherwise provided for under the Municipal Code. It is intended to provide a procedure for the exhaustion of administrative remedies as required by applicable law where such procedure is not governed by other provisions of the Municipal Code, such as Titles 16 and 17. This chapter is not intended to create any rights of appeal or remedies that otherwise do not exist, or to affect any criminal proceeding.

2.64.020 Procedure.

A. Definitions. For purposes of this chapter:

"**Administrative authority**" means a person, board, commission, agency, or other body designated by the city council to interpret or enforce the Municipal Code or act upon applications filed under the Municipal Code.

"**Appeal authority**" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of an administrative authority.

B. Exclusive Procedure. Except as otherwise provided in the Municipal Code, any appeal from the decision of an administrative authority administering or interpreting an ordinance, or from a fee charged under the Municipal Code, may be made only in accordance with the provisions of this section. Only those decisions in which an administrative authority has applied an ordinance to a particular application, person, business or parcel or property may be appealed to the appeal authority.

C. Appeal Authority. The city council will serve as appeal authority for purposes of any appeal from a written decision of an administrative authority under this chapter. The appeal authority will respect the due process rights of each of the participants in the appeal proceedings.

D. Time of Appeal. Any person adversely affected by an administrative authority's decision administering or interpreting an ordinance may file a written notice of appeal with the city recorder within ten (10) days after the administrative authority's written decision is issued. All appeal rights are waived if the notice of appeal is not filed within that time frame.

E. Notice of Appeal—Contents. The notice of appeal shall contain a brief statement of all alleged grounds for appeal, including every theory of relief the adversely affected party can raise in district court, together with any supporting documentation and legal argument. The appellant waives any ground, theory, or argument not raised in the notice of appeal. Unless the appeal authority orders otherwise for good cause, the appellant will be precluded from presenting as evidence at the appeal hearing any documents or other information that is not included in the notice of appeal.

F. Response to Notice of Appeal. At its option, the city or any party opposing the appeal may file a written brief, together with any supporting documentation, responding to the notice of appeal prior to the appeal hearing. Failure to file a responsive brief or supporting documentation will not preclude the party from responding to the notice of appeal at the appeal hearing.

G. Burden of Proof. The appellant bears the burden of proving by a preponderance of the evidence that the administrative authority erred.

H. Standard of Review. The appeal authority shall determine the correctness of the administrative authority's decision interpreting or applying an ordinance. The appeal authority shall review the evidence and arguments on appeal *de novo*, without deference to any findings or conclusions of the administrative authority

I. Hearing on Appeal. The appeal authority will hear the appeal at a regular city council meeting, scheduled at the convenience of the council. The city will provide notice of the hearing to the appellant and any party that has filed a responsive brief. At the hearing, each party will be allowed a reasonable time, as determined by the appeal authority, to present evidence, by way of live testimony and documentary evidence (including affidavits), and arguments supporting the party's position. In the interest of fairness, the appeal authority, in its discretion, may continue the hearing to another city council meeting or allow the parties to file supplemental materials addressing any information raised at the hearing.

J. Final Decision. Following the hearing the appeal authority may affirm, reverse, affirm in part and reverse in part, or modify the decision of the administrative authority; or the appeal authority may remand the matter to the administrative authority for further proceedings. The written decision of the appeal authority constitutes a final decision and will be binding on all parties when issued.

K. Further Appeal. The city, a board or officer of the city, or any person adversely affected by the decision of the appeal authority may appeal to district court as provided by law.

Title 3 REVENUE AND FINANCE

Chapters:

Chapter 3.04 SALES AND USE TAX

Sections:

3.04.010 Purpose.

The purpose of this chapter is to levy a one-percent sales and use tax effective January 1, 1990, in compliance with the provisions of the Uniform Local Sales and Use Tax Law, Chapter 12, Title 59, Utah Code Annotated 1953, insofar as they relate to sales and use taxes. It is the purpose of this chapter to conform the sales and use tax of the city to the requirements of the Sales and Use Tax Act, Chapter 12, Title 59, Utah Code Annotated 1953, as currently amended.

A. For the purpose of this chapter all retail sales shall be presumed to have been consummated at the place of business delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. In the event a retailer has no permanent place of business, the place or places at which the retail sales are consummated shall be as determined under

the rules and regulations prescribed and adopted by the State Tax Commission. Public utilities, as defined by Title 54, Utah Code Annotated 1953, shall not be obligated to determine the place or places within any county or municipality where public utilities services are rendered, but the place of sale or the sales tax revenue arising from such service allocable to the city shall be as determined by the State Tax Commission pursuant to an appropriate formula and other rules and regulations to be prescribed and adopted by it.

B. Except as hereinafter provided and except insofar as they are inconsistent with the provisions of the Sales and Use Tax Act, all of the provisions of Chapter 12, Title 59, Utah Code Annotated 1953, as amended and in force and effect on the effective date of the ordinance codified in this chapter, insofar as they relate to sales taxes, excepting Sections 59-12-101 and 59-12-119 thereof, are adopted and made a part of this chapter as though fully set forth herein.

C. Wherever, and to the extent that in Chapter 12, Title 59, Utah Code Annotated 1953, the state of Utah is named or referred to as the taxing agency, the name of the city shall be substituted therefore. Nothing in subsection B of this section shall be deemed to require substitution of the name of the city for the word "state" when that word is used as part of the title of the State Tax Commission or of the Constitution of the state of Utah. Nor shall the name of the city be substituted for that of the state in any section when the result of that substitution would require action to be taken by or against the city or any agency thereof, rather than by or against the State Tax Commission in performing the functions incident to the administration or operation of the ordinance.

D. If an annual license has been issued to a retailer under Section 59-12-106 of the Utah Code Annotated 1953, an additional license shall not be required by reason of this section.

E. There shall be excluded from the purchase price paid or charged by which the tax is measured:

1. The amount of any sales or use tax imposed by the state of Utah upon a retailer or consumer; and

2. The gross receipts from the sale of or the cost of storage, use or other consumption of tangible personal property upon which a sales or use tax has become due by reason of the sale transaction to any other municipality and any county in the state of Utah, under the sales or use tax ordinance enacted by that county or municipality in accordance with the Sales and Use Tax Act. (Prior code § 3-1-1)

3.04.020 Contract with State Tax Commission.

The existing contract between the city and the State Tax Commission, which provides that the Commission will perform all functions incident to the administration and operation of the sales and use tax ordinance of this city, is declared to be in full force and effect, and the mayor is authorized to enter into such supplementary agreement with the State Tax Commission as may be necessary to the continued administration and operation of the local sales and use tax ordinance of the city as reenacted by the ordinance codified in this chapter. (Prior code § 3-1-2)

3.04.030 Sales tax levied.

There is levied a tax upon every retail sale of tangible personal property, services and means made within the city at the rate of one percent. (Prior code § 3-1-3)

3.04.040 Use tax levied.

An excise tax is levied on the storage, use or other consumption in this city of tangible personal property purchased from any retailer on or after the operative date of the ordinance codified in this chapter at the rate of one percent of the sales price of the property. (Prior code § 3-1-4)

3.04.050 Violations--Penalties.

Any person violating any of the provisions of this chapter shall be deemed guilty of a Class B misdemeanor, and upon conviction thereof, shall be punished by a fine in an amount not over one thousand dollars ($1,000.00), or imprisonment for a period of not more than six months, or by both such fine and imprisonment. (Prior code § 3-1-5)

Chapter 3.08 MUNICIPAL ENERGY SALES AND USE TAX

Sections:

3.08.010 Purpose.

It is the intent of West Bountiful City to adopt the municipal energy sales and use tax, pursuant to, and in conformance with, Utah Code Section 10-1-301 et seq., the Municipal Energy Sales and Use Tax Act. (Ord. 254-98 (part))

3.08.020 Definitions.

As used in this chapter:

"**Consumer**" means a person who acquires taxable energy for any use that is subject to the municipal energy sales and use tax.

"**Contractual franchise fee**" means:

1. A fee:

    a. Provided for in franchise agreements, and

    b. That is consideration for the franchise agreements; or

2. a. A fee similar to subsection 1 above; or

    b. Any combination of subsections 1 or 2.

"**Delivered value**" means the fair market value of the taxable energy delivered for sale or use in the municipality and includes:

1. The value of the energy itself; and

2. Any transportation, freight, customer demand charges, service charges, or other costs typically incurred in providing taxable energy in usable form to each class of customer in the municipality.

"**Delivered value**" does not include the amount of a tax paid under Part 1 and Part 2 of Chapter 12, Title 59 of the Utah Code Annotated.

"**De minimis amount**" means an amount of taxable energy that does not exceed the greater of:

1. Five percent of the energy supplier's estimated total Utah gross receipts from sales of property or services; or

2. Ten thousand dollars ($10,000.00).

"**Energy supplier**" means a person supplying taxable energy, except for persons supplying a de minimus amount of taxable energy, if such persons are excluded by rule promulgated by the State Tax Commission.

"**Franchise agreement**" means a franchise or an ordinance, contract or agreement granting a franchise.

"**Franchise tax**" means:

1. A franchise tax;

2. A tax similar to a franchise tax; or

3. A combination of subsections 1 or 2.

"**Person**" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, the state of Utah, any county, city, municipality, district, or other local governmental entity of the state of Utah, or any group or combination acting as a unit.

"**Sale**" means any transfer of title, exchange or barter, conditional or otherwise, in any manner, of taxable energy for a consideration. It includes:

1. Installment and credit sales;

2. Any closed transaction constituting a sale;

3. Any transaction under which the right to acquire, use or consume taxable energy is granted under a lease or contract and the transfer would be taxable if an outright sale were made.

"**Storage**" means any keeping or retention of taxable energy in West Bountiful City for any purpose except sale in the regular course of business.

"**Taxable energy**" means gas and electricity

"**Use**" means the exercise of any right or power over taxable energy incident to the ownership or the leasing of the taxable energy.

"**Use**" does not include the sale, display, demonstration, or trial of the taxable energy in the regular course of business and held for resale. (Ord. 254-98 (part))

3.08.030 Municipal energy sales and use tax levied.

There is levied, subject to the provisions of this chapter, a tax on every sale or use of taxable energy made within West Bountiful City equaling six percent of the delivered value of the taxable energy to the consumer. This tax shall be known as the municipal energy sales and use tax.

A. The tax shall be calculated on the delivered value of the taxable energy.

B. The tax shall be in addition to any sales or use tax on taxable energy imposed by West Bountiful City as authorized by Title 59, Chapter 12, Part 2 of the Utah Code Annotated, the Local Sales and Use Tax Act. (Ord. 254-98 (part))

3.08.040 Exemptions.

A. No exemptions are granted from the municipal energy sales and use tax except as expressly provided in Utah Code Annotated 10-1-305(2)(b); notwithstanding an exemption granted by 59-1-104 of the Utah Code.

B. The following are exempt from the Municipal Energy Sales and Use Tax, pursuant to Utah Code Annotated Section 10-1-305-(2)(b) and this chapter, notwithstanding the exemptions granted by Utah Code Annotated Section 59-12-104.

1. Sales and use of aviation fuel, motor fuel and special fuels subject to taxation under Title 59, Chapter 13 of the Utah Code Annotated, Motor and Special Fuel Tax Act;

2. Sales and use of taxable energy that is exempt from taxation under federal law, the United States Constitution, or the Utah Constitution;

3. Sales and use of taxable energy purchased or stored for resale;

4. Sales or use of taxable energy to a person, if the primary use of the taxable energy is for use in compounding or producing taxable energy or fuel subject to taxation under Title 59, Chapter 13 of the Utah Code Annotated, Motor and Special Fuel Tax Act;

5. Taxable energy brought into the state by nonresident for the nonresident's own personal use or enjoyment while within the state, except taxable energy purchased for use in the state by a nonresident living or working in the state at the time of purchase;

6. The sale or use of taxable energy for any purpose other than as a fuel or energy; and

7. The sale of taxable energy for use outside the boundaries of West Bountiful City.

C. The sale, storage, use or other consumption of taxable energy is exempt from the municipal energy sales and use tax levied by this chapter, provided:

1. The delivered value of the taxable energy has been subject to a municipal energy sales or use tax levied by another municipality within the state authorized by Title 59, Chapter 12, Part 3 of the Utah Code Annotated; and

2. West Bountiful City is paid the difference between the tax paid to the other municipality and the tax that would otherwise be due under this chapter, if the tax due under this chapter exceeds the tax paid to the other municipality. (Ord. 254-98 (part))

3.08.050 Effect on existing franchises--Credit for franchise fees.

A. This chapter shall not alter any existing franchise agreements between West Bountiful City and energy suppliers.

B. There is a credit against the tax due from any consumer in the amount of a contractual franchise fee paid if:

1. The energy supplier pays the contractual franchise fee to West Bountiful City pursuant to franchise agreement in effect on July 1,1998; and

2. The contractual franchise fee is passed through by the energy supplier to a consumer as a separate itemized charge; and

3. The energy supplier has accepted the franchise. (Ord. 254-98 (part))

3.08.060 Tax collection contract with State Tax Commission.

A. On or before the effective date of this chapter, West Bountiful City shall contract with the State Tax Commission to perform all functions incident to the administration and collection of the municipal energy sales and use tax, in accordance with this chapter.

This contract may be a supplement to the existing contract with the Commission to administer and collect the local sales and use tax, as provided in Section 3.04.020. The mayor, with the approval of the city administrator and city attorney, is authorized to enter into agreements with the State Tax Commission that may be necessary to the continued administration and operation of the municipal energy sales and use tax ordinance enacted by this chapter.

B. An energy supplier shall pay the municipal energy sales and use tax revenues collected from the consumers directly to West Bountiful City monthly if:

1. West Bountiful City is the energy supplier; or

2. a. The energy supplier estimates that the municipal energy sales and use tax collected annually from its Utah consumers equals one million dollars ($1,000,000.00) or more, and

b. The energy supplier collects the municipal energy sales and use tax.

C. An energy supplier paying the municipal energy sales and use tax directly to West Bountiful City may deduct any contractual franchise fees collected by the energy supplier qualifying as a credit and remit the net tax less any amount the energy supplier retains as authorized by Section 10-1-307(4), Utah Code Annotated. (Ord. 254-98 (part))

3.08.070 Incorporation of Part 1, Chapter 12, Title 59, Utah Code, including amendments.

A. Except as herein provided, and except insofar as they are inconsistent with the provisions of Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act, as well as this chapter, all of the provisions of Part 1, Chapter 12, Title 59 of the Utah Code Annotated 1953, as amended, and in force and effect on the effective date of this chapter, insofar as they relate to sales and use taxes, excepting Sections 59-12-101 and 59-12-119 thereof, and excepting for the amount of the sales and use taxes levied therein, are hereby adopted and made a part of this chapter as if fully set forth herein.

B. Wherever, and to the extent that in Part 1, Chapter 12, Title 59, Utah Code Annotated 1953, as amended, the state of Utah is named or referred to as the "taxing agency," West Bountiful City shall be substituted, insofar as is necessary for the purpose of that part, as well as Part 3, Chapter 1, Title 10, Utah Code Annotated 1953, as amended. Nothing in this subsection shall be deemed to require substitution of the name of West Bountiful City for the word "State" when that word is used as part of the title of the State Tax Commission, or of the Constitution of Utah, nor shall the name West Bountiful be substituted for that of the state in any section when the result of such a substitution would require

action to be taken by or against West Bountiful City or any agency thereof, rather than by or against the State Tax Commission in performing the functions incident to the administration or operation of said chapter.

C. Any amendments made to Part 1, Chapter 12, Title 59, Utah Code Annotated 1953, as amended, which would be applicable to West Bountiful City for the purpose of carrying out this chapter are incorporated herein by reference and shall be effective upon the date that they are effective as a Utah statute. (Ord. 254-98 (part))

3.08.080 Collection and reporting--Additional license not required.

No additional license to collect or report the municipal energy sales and use tax levied by this chapter is required, provided the energy supplier collecting the tax has a license issued under Section 59-12-106, Utah Code Annotated. (Ord. 254-98 (part))

Chapter 3.12 INNKEEPER LICENSE TAX

Sections:

3.12.010 Tax levied.

There is levied upon the business of every person, company, corporation, or other like and similar persons, groups or organizations doing business in West Bountiful City, Utah as motor courts, motels, hotels, inns or like and similar public accommodations, an annual license tax equal to one percent of gross revenue derived from the rent for each and every occupancy of a suite, room or rooms, for a period of thirty (30) days or less. (Ord. 258-99 (part): prior code § 3-3-1)

3.12.020 Gross receipts.

For the purpose of this chapter, gross receipts shall be computed upon the base room rental rate. There shall be excluded from the gross revenue, by which this tax is measured:

A. The amount of any sales or use tax imposed by the state of Utah or by any other government agency upon a retailer or consumer;

B. The amount of a transient room tax levied under authority of Title 59-12-Part 3a of Utah State Code 1998;

C. Receipts from the sale or service charge for any food, beverage or room service charges in conjunction with the occupancy of the suite, room or rooms, not included in the base room rate; and

D. Charges made from supply telephone service, gas or electrical energy service, not included in the base room rate. (Ord. 258-99 (part): prior code § 3-3-2)

3.12.030 Remittance of innkeepers tax.

The tax imposed by this section shall be due and payable to the city treasurer quarterly on or before the thirtieth day of the month next succeeding each calendar quarterly period, commencing the first day of January 1999. Every person or business taxed hereunder shall, on or before the thirtieth day of the month next succeeding each calendar quarterly period, file with the city a report of its gross revenue for the preceding quarterly period. The report shall be accompanied by a remittance of the amount of tax due for the period covered by the report. (Ord. 258-99 (part): prior code § 3-3-3)

3.12.040 Audit of taxes.

West Bountiful City shall have the right to audit all taxes collected from each and every business of this type within the city limits of West Bountiful City. The city's mayor, financial manager, or any successor head of the executive branch of government, is designated the official of the city having full power and authority to perform this audit. (Ord. 258-99 (part): prior code § 3-3-4)

3.12.050 Enforcement of penalties.

West Bountiful City has the right to enforce all penalties as set forth in Section 59-1-401 of Utah State Code 1998 for failure to file a tax return within the time prescribed. (Ord. 258-99 (part): prior code § 3-3-5)

3.12.060 Interest allowed.

West Bountiful City has the right to charge interest on taxes not paid in a timely manner at the rate as set forth in Section 59-1-402 of Utah State Code 1998. (Ord. 258-99 (part): prior code § 3-3-6)

3.12.070 Contract with state.

The city may contract with the Utah State Tax Commission to perform all functions incident to the administration and operation of this chapter. (Ord. 258-99 (part): prior code § 3-3-7)

Chapter 3.16 SALE OF UNCLAIMED PROPERTY

Sections:

3.16.010 Storage.

The categories of property listed hereafter shall be delivered to the chief of police, who shall enter or cause to be entered in a record kept for this purpose, a detailed description of the property, together with the name of the person, or persons, from whom received; the names of any claimants thereto; the disposition thereof. The subject categories include: all property or money taken from persons under arrest, or taken under suspicion or with knowledge of its having been stolen or feloniously obtained; all property or money constituting evidence or proceeds of crime, or taken from intoxicated or insane persons, or other persons incapable of taking care of themselves; and all property or money lost or abandoned that may come into the possession of the city. (Ord. 264-00 (part): prior code § 7-3-1)

3.16.020 Disposition of property upon adjudication--Custody of property if accused held for trial.

When any person arrested shall be adjudged innocent of the offense charged by a court of competent jurisdiction, which shall adjudge that the property or money belongs to such person, the chief of police shall thereupon deliver such property or money to him or her personally, and not to his or her attorney or agent, and take his or her receipt therefor. If the accused be held for trial or examination, such money or property shall remain in the custody of the chief of police until the discharge or conviction of the person accused, unless prior thereto he or she has delivered the same to a state or county officer, as provided by law. (Prior code § 7-3-2)

3.16.030 Sale at public auction.

The city recorder or his or her agent in this matter may sell at public auction all unclaimed property that has been in its custody for a period of three months. The recorder shall fix a day upon which the sale shall take place, and shall give notice thereof by publication three times in an official newspaper. The notice shall state the day and hour when such sale shall commence and shall contain a general description of the property to be sold, or shall refer to a list thereof on file with the city recorder. The notice shall be signed by the city recorder or by the person designated by him or her to conduct such public auction. The proceeds of such sale shall, together with all moneys unclaimed for a period of three months, be paid into the city treasury. In no case shall any property be sold or disposed of until the necessity for the use thereof as evidence has ceased.

Any property so advertised for sale and for which there is no bidder may be junked or otherwise disposed of, as determined by the city council. (Prior code § 7-3-3)

3.16.040 Sale of unclaimed property--Disposition of proceeds.

A. As used in this section, "public interest use" includes:

1. Use by a government agency; and

2. Donation to a bona fide charity.

B. If custodial property is not claimed by the owner before the expiration of three months from the receipt of notice, or if the owner is unknown and no claim of ownership has been made, the agency having possession of the custodial property may either:

1. Appropriate the property for public interest use as provided in subsection C of this section; or

2. Sell the property at public auction, as provided by law and appropriate the proceeds of the sale to its own use.

C. Before appropriating the custodial property for public interest use, the agency having possession of the property shall obtain from the legislative body of its jurisdiction:

1. Permission to appropriate the property; and

2. The designation and approval of the public interest use of the property. (Ord. 261-99 §§ 1-3: prior code § 7-3-4)Chapter 3.18

Chapter 3.18 MOBILE TELEPHONE SERVICE REVENUE ACT

Sections:

3.18.010 Definitions.

Definitions. For purposes of this chapter, the following terms are defined as follows:

"**Customer**" means:

1. The person or entity, having a place of primary use within the city, that contracts with the home service provider for mobile telecommunications services; or

2. If the end user of mobile telecommunications services is not the contracting party, the end user of the mobile telecommunications services; but this subsection applies only for the purpose of determining the place of primary use.

"**Customer**" does not include:

1. A reseller of mobile telecommunications service; or

2. A serving carrier under an arrangement to serve the customer outside the home service provider's licensed service area.

"**Designated database provider**" means a corporation, association, or other entity representing all the political subdivisions of a state that is:

1. Responsible for providing an electronic database prescribed in subsection 119(a) of chapter 4, Title 4 of the United States Code if the state has not provided such electronic database; and

2. Approved by municipal and county associations or leagues of the state whose responsibility it would otherwise be to provide such database prescribed by Sections 116 through 126 of Chapter 4, Title 4 of the United States Code.

"**Enhanced zip code**" means a United States postal zip code of nine or more digits.

"**Home service provider**" means the facilities-based carrier or reseller with which the customer contracts for the provision of mobile telecommunications services.

"**Licensed service area**" means the geographic area in which the home service provider is authorized by law or contract to provide commercial mobile radio service to the customer.

"**Mobile telecommunications service**" means commercial mobile radio service, as defined in Section 20.3 of Title 47 of the Code of Federal Regulations as in effect on June 1, 1999. For purposes of this chapter, mobile telecommunications services shall not include:

1. Pager services using mobile devices that do not allow for two-way voice communication;

2. Narrowband personal communications services; and

3. Short message services (SMS).

"**Place of primary use**" means the street address representative of where the customer's use of the mobile telecommunications service primarily occurs, which must be:

1. The residential street address or the primary business street address of the customer; and

2. Within the licensed service area of the home service provider.

"**Prepaid telephone calling services**" means the right to purchase exclusively telecommunications services that must be paid for in advance, that enables the origination of calls using an access number, authorization code, or both, whether manually or electronically dialed, if the remaining amount of units of service that have been prepaid is known by the provider of the prepaid service on a continuous basis.

"**Reseller**" means:

1. A provider who purchases telecommunications services from another telecommunications service provider and then resells, uses as a component part of, or integrates the purchased services into a mobile telecommunications service; and

2. Does not include a serving carrier with which a home service provider arranges for the service to its customers outside the home service provider's licensed service area.

"**Serving carrier**" means a facilities-based carrier providing mobile telecommunications service to a customer outside a home service provider's or reseller's licensed service area. (Ord. 271-00 § 2 (part))

3.18.020 Monthly tax levied.

There is levied upon every home service provider a tax of one dollar per month for each telephone number assigned to any customer whose place of primary use is within the city. The home service provider may or may not pass this tax on to its customers. If the home service provider passes the tax on to the customer, and the tax is reflected on the customer's bill, the tax shall be shown on the bill as a flat rate municipal tax charge. (Ord. 271-00 § 2 (part))

3.18.030 Remittance date.

A. Within thirty (30) days after the end of each calendar month, the home service provider taxed hereunder shall file, with the city treasurer, a report computing the tax. Coincidental with the filing of such report, the business shall pay, to the city treasurer, the amount of the tax due for the calendar

month subject to the report. If the thirtieth (30th) day after the end of each calendar month falls on a Saturday, Sunday, or state or federal holiday, the deadline for filing the monthly report and remitting payment for that month is extended to the next subsequent business day.

B. Delinquent Payment. Any payment not paid when due shall be subject to a delinquency penalty charge of ten percent (10%) of the unpaid amount. Failure to make full payment and penalty charges within sixty (60) days of the applicable payment date shall constitute a violation of this chapter. All overdue amounts, including penalty charges, shall bear interest until paid at the rate of an additional ten percent (10 %) per annum.

C. Reconciliation. Within three years after the filing of any report or the making of any payment, the city treasurer may examine such report or payment, determine the accuracy thereof, and, if the city treasurer finds any errors, report such errors to the home service provider for correction. If any tax, as paid, shall be found deficient, the home service provider shall within sixty (60) days remit the difference, and if the tax as paid is found excessive, the city shall within sixty (60) days refund the difference plus interest at the same rate as if such amount was deficient.

In the event of a disagreement, the home services provider shall file under protest pending the resolution of the dispute between the parties or through the courts.

D. Record Inspection. The records of the home service provider pertaining to the reports and payment of the tax, including, but not limited to, any records deemed necessary by the city to calculate or confirm proper payment by the home service provider, shall be open for inspection by the city and its duly authorized representatives upon reasonable notice at all reasonable business hours of the home services provider within the statute of limitations period defined in subsection C of this section.

E. Home Service Provider--Duty to Cooperate on Record Inspection.

1. In order to facilitate any record inspection, the home service provider shall, upon thirty (30) days' prior written request:

    a. Grant the city or its duly authorized representatives reasonable access to those portions of the books and records of the home service provider necessary to calculate and confirm property payment of the tax; or

    b. Provide the city or its duly authorized representatives with reports containing or based on information necessary to calculate and confirm proper payment of the tax.

2. Any requests for such books, records, reports, or portions thereof shall specify in writing the purpose for such request Any books, records, reports, or portions thereof provided by the home service provider to the city under a claim that such documents are confidential business records are designated as "protected records" and shall not be copied or disclosed by the city to third parties without the written permission of the home service provider, unless such documents are determined by a court of law to constitute "public records" within the meaning of the Utah Government Records Access and Management Act. (Ord. 271-00 § 2 (part))

3.18.040 Requirement to maintain electronic database or enhanced zip code listing.

A. Electronic Database.

1. Provision of Database. The state may provide an electronic database to a home service provider; or, if the state does not provide such an electronic database, the designated database provider may choose to provide an electronic database to a home service provider.

2. Format.

a. Such electronic database, whether provided by the state or the designated database provider, shall be provided in a format approved by the American National Standards Institute's Accredited Standards Committee X12, which, allowing for de minimis deviations, designates for each street address in the city, including, to the extent practicable, any multiple postal street addresses applicable to one street location, the appropriate taxing jurisdictions, and the appropriate code identified by one nationwide standard numeric code

b. Such electronic database shall also provide the appropriate code for each street address with respect to political subdivisions that are not taxing jurisdictions when reasonably needed to determine the proper taxing jurisdiction.

c. The nationwide standard numeric codes shall contain the same number of numeric digits, with each digit or combination of digits referring to the same level of taxing jurisdiction throughout the United States, using a format similar to FIPS 55-3 or other appropriate standard approved by the Federation of Tax Administrators and the Multistate Tax Commission or their successors. Each address shall be provided in standard postal format.

B. Notice--Updates. The state or designated database provider that provides or maintains an electronic database as described above shall provide notice of the availability of the then-current electronic database and any subsequent revisions thereof, by publication in the manner normally employed for the publication of informational tax, charge, or fee notices to taxpayers in such state.

C. User Held Harmless. A home service provider using the data contained in an electronic database described above shall be held harmless from any tax, charge, or fee liability that otherwise would be due solely as a result of any error or omission in such database provided by the city or designated database provider. The home service provider shall reflect changes made to such database during a calendar quarter, not later than thirty (30) days after the end of such calendar quarter the state has issued notice of the availability of an electronic database reflecting such changes under subsection B of this section.

D. Procedure If No Electronic Database Provided.

1. Safe Harbor. If neither the state nor the designated database provider provides an electronic database, a home service provider shall be held harmless from any tax, charge, or fee liability in the city that otherwise would be due solely as a result of an assignment of a street address to an incorrect taxing jurisdiction, if the home service provider employs an enhanced zip code to assign each street address to a specific taxing jurisdiction and exercises due diligence to ensure that each such street address is assigned to the correct taxing jurisdiction. If an

enhanced zip code overlaps boundaries of taxing jurisdictions of the same level, the home service provider must designate one specific jurisdiction within such enhanced zip code for use in taxing the activity for such enhanced zip code. Any enhanced zip code assignment changed is deemed to be in compliance with this section. For purposes of this section, there is a rebuttable presumption that a home service provider has exercised due diligence if the home service provider demonstrates that it has:

a. Expended reasonable resources to implement and maintain an appropriately detailed electronic database of street address assignments to taxing jurisdictions;

b. Implemented and maintained reasonable internal controls to promptly correct misassignments of street addresses to taxing jurisdictions; and

c. Used all reasonably obtainable and usable data pertaining to municipal annexations, incorporations, reorganizations, and any other changes in jurisdictional boundaries that materially affect the accuracy of such database.

2. Termination of Safe Harbor. Subsection (D)(1) of this section, "Safe Harbor," applies to a home service provider that is in compliance with the requirements of the "Safe Harbor" subsection with respect to a state for which an electronic database is not provided, until the later of:

a. Eighteen (18) months after the nationwide standard numeric code has been approved by the Federation of Tax Administrators and the Multistate Tax Commission; or

b. Six (6) months after the state or a designated database provider in the state provides such database. (Ord. 271-00 § 2 (part))

3.18.050 Place of primary use.

A. A home service provider is responsible for obtaining and maintaining the customer's place of primary use. Subject to Section 3.18.040, and if the home service provider's reliance on information by its customer is in good faith, a home service provider:

1. May rely upon the applicable residential or business street address supplied by the home service provider's customer;

2. Is not liable for any additional taxes, charges, or fees based on a different determination of the place of primary use for taxes, charges, or fees that are customarily passed on to the customer as a separate address under existing agreements.

B. A home service provider may treat the address used by the home service provider for tax purposes for any customer under a service contract or agreement in effect two years after the date of the ordinance codified in this chapter as that customer's place of primary use for the remaining term of such service contract or agreement, excluding any extension or renewal of such service contract or agreement, for purposes of determining the taxing jurisdiction to which taxes, charges, or fees on charges for mobile telecommunication services are remitted. (Ord. 271-00 § 2 (part))

3.18.060 Tax against customer.

Each customer shall accurately report the customer's place of primary use. The customer shall be liable for any taxes not paid by the home service provider as a result of the customer's failure to accurately report the customer's place of primary use. (Ord. 271-00 § 2 (part))

3.18.070 Non application.

This chapter does not apply to the determination of the taxing status of:

A. Prepaid telephone calling services; or

B. Air-ground radiotelephone service, as defined in Section 22.99 of Title 47 of the Code of Federal Regulations as in effect on June 1, 1999. (Ord. 271-00 § 2 (part))

3.18.080 Implementation date.

If the ordinance codified in this chapter is adopted before January 1, 2001, a home service provider shall have a minimum of thirty (30) days' notice before being obligated to collect the tax described in this chapter. After January 1, 2001, a home service provider shall have a minimum of sixty (60) days' notice before being obligated to collect the tax described in this chapter. After January 1, 2001, a home service provider shall receive a minimum of sixty (60) days' notice regarding any changes to this chapter. (Ord. 271-00 § 2 (part))

3.18.090 Severability.

If Section 3.18.020 is for any reason determined to be, or is rendered, illegal, invalid, or superceded by other lawful authority, including any state or federal, legislative, regulatory, or administrative authority having jurisdiction thereof, or determined to be unconstitutional, illegal, or invalid by any court of competent jurisdiction, such section shall be deemed a separate, distinct, and independent provision, and such determination shall have no effect on the validity of any other section; provided, however, upon such event and in lieu of such tax, there is levied upon every home service provider a tax equal to six percent of the annual gross revenue of the home service provider generated from services and products to customers. (Ord. 271-00 § 3)

Chapter 3.20 PROCUREMENT

Sections:

3.20.010 Procurement system.

There is established a procurement system to provide procedures and guidelines for the procurement of supplies, services, and construction for the city; and

A. To encourage competition and ensure that the city will receive the best possible service or product at the lowest reasonable price;

B. To ensure fair and equitable treatment of all persons who wish to, or do conduct business with the city; and,
C. To ensure that all such purchases or encumbrances are made, efficiently, economically and in a timely manner. (Ord. 270-00 (part): prior code § 3-3-010)

3.20.020 Compliance.

All expenditures of the city shall conform to the provisions of this chapter and applicable provisions of state law, including the Uniform Fiscal Procedures Act, Utah Code Ann. § 10-6-101, et seq., as amended, and applicable provisions of the Utah Procurement Code, Utah Code Ann. § 63-56-1, as amended. Any expenditures of the city involving federal assistance funds shall comply with applicable federal law and regulations. Any expenditure of the city involving the construction, maintenance or improvement project of a class B or C road or work excluded under Utah Code Ann. § 10-7-20, as amended, shall comply with applicable provisions of the State Highway Code, including Utah Code Ann. §§ 72-2-107 to 71-1-110 as amended. No check or warrant to cover any claim against appropriations may be drawn until the claim has been processed according to the relevant provisions of this chapter. (Ord. 270-00 (part): prior code § 3-3-020)

3.20.030 Definitions.

As used in this chapter, the following words shall have the following meanings:

"**Construction**" means the process of building, renovation, alteration, improvement, or repair of any public building or public work. "Construction" does not mean the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.

"**Person**" means any individual, firm, partnership, trust, limited liability company, corporation, or other entity however designated.

"**Procurement**" means buying, purchasing, renting, leasing, leasing with an option to purchase, or otherwise acquiring any supplies, services, or construction, and all functions that pertain to the obtaining of any supply,

service, or construction, including the solicitation of sources, contract selection process, contract award, and all phases of contract administration.

"**Professional services**" means the furnishing of services for auditing, banking, insurance, engineering, legal, architectural, and other forms of professional consulting.

"**Responsible bidder**" means a person who submits a bid to furnish supplies, services or construction for the city pursuant to and in accordance with the terms and conditions of this chapter and who furnishes, when requested, sufficient information and data to prove his or her financial resources, production or service facilities, service reputation and experience are adequate to the satisfaction of the city.

"**Services**" means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports that are merely incidental to the required performance. "Services" does not include employment agreements, collective bargaining agreements, or printing services.

"**Supplies**" means all personal property, including equipment, materials, and expendable goods, as well as printing services. "Supplies" does not include real property or any interest in real property. (Ord. 270-00 (part): prior code § 3-3-030)

3.20.040 Purchasing agent.

The city administrator is designated as the purchasing agent for the city according to Section 2.12.070 of the Municipal Code. The purchasing agent may compile and document administrative policies and procedures to carry out the responsibilities required by this title.

3.20.050 Budget limitation.

No expenditure or encumbrance shall be made for the city in excess of total appropriations in the budget, as adopted or subsequently amended by the city, without prior written approval from the city administrator or the city council. (Ord. 270-00 (part): prior code § 3-3-050)

3.20.060 Purchase orders.

Before any order may be placed for the purchase of any supply, service or construction of twenty-five hundred dollars ($2,500.00) or greater but less than ten thousand dollars ($10,000.00), a completed purchase order form shall be submitted to the department head; if the order is for ten thousand dollars or greater, the completed purchase order form shall be submitted to the purchasing agent. The purchasing agent or department head, as appropriate, shall review all purchase orders and determine whether the expenditure requested is for a city purpose, properly budgeted, and in compliance with city ordinances and state law. If the purchasing agent or department head determines the expenditure requested complies with these requirements, he or she shall sign the purchase order and initiate the appropriate procedures set forth in this chapter for procurement of the supply, service or construction. A purchase order shall not be required for purchases under twenty-five hundred dollars ($2,500.00). (Ord. 323-11, supersedes Ord. 270-00 (part): prior code § 3-3-060)

3.20.070 Approvals.

A. Except as otherwise provided in the Municipal Code, all purchases, and all contracts for services awarded, shall be made as follows:

1. Amounts to be paid by the city of $10,000 or more must be approved by the city council. However, advance approval is not required for emergency expenditures or for ongoing, routine expenses exceeding $10,000 such as gasoline or fuel for vehicles and utilities for city facilities including natural gas, or electrical energy, which may be approved by the city administrator or department head.

2. Amounts to be paid by the city of less than $10,000 must be approved by the city administrator and may be approved by the respective department heads or designees authorized by the city administrator or department head.

3. Amounts to be paid by the city of $5,000 or more shall be awarded only after comparative price quotations have been solicited, received, and evaluated.

B. It is unlawful to artificially divide a purchase or expenditure to avoid appropriate approvals as provided in section A, above.

C. Additional approvals may be required by the city administrator and city auditor when spending limitations are in effect.

D. Exempt Expenditures. The following expenditures of the city shall be referred to as "exempt expenditures" and may be made without formal or informal bidding procedures, but should be made with as much competition as practicable under the circumstances. The purchasing agent or his designee shall determine whether an expenditure falls within one of these exemptions. All exempt expenditures shall be reviewed by the city council on at least a quarterly basis.

1. Minor. Any expenditure amounting to less than two thousand dollars ($2,000.00). It is unlawful to artificially divide a purchase or expenditure so as to constitute a minor expenditure under this subsection;

2. Single Source. Any expenditure for goods or services which by their nature are not reasonably adapted to award by competitive bidding. These expenditures include goods or services which can be purchased only from a single source; contracts for additions to and repair and maintenance of equipment already owned by the city which may be more efficiently added to, repaired or maintained by a certain person or firm; and equipment which, by reason of the training of city personnel or an inventory of replacement parts, is compatible with the existing equipment owned by the city. Prior to any expenditure under this subsection, the purchasing agent or city council, as the case may be, shall determine in writing that the requirements of this subsection have been satisfied;

3. Professional Services. Any expenditure for professional services which by their nature are not reasonably adapted to award by competitive bidding. Such expenditures shall be awarded at the discretion of the city council based on the city council’s evaluation of the professional qualifications, service ability, experience, cost of services, and other applicable criteria;

4. Emergency. Any expenditure made under the existence of an emergency condition such as when a breakdown in machinery or in an essential service occurs or when unforeseen circumstances arise which threaten the public's health, welfare or safety;

5. State or Federal Bidding. Any expenditure for which competitive bidding or price negotiation has already occurred at the state or federal level;

6. Inter-local Cooperation. Any expenditure made in conjunction with an agreement approved by resolution of the city council between the city and another city or governmental entity.

3.20.080 Formal bidding procedure.

Formal competitive bidding shall be conducted as required by State law.

3.20.090 Rejection of Bids or Price Solicitation.

Any and all bids may be rejected without cause and the City may re-invite bids or re-solicit price quotations.

3.20.100 Lowest Responsive Responsible Bidder.

A. The lowest responsive responsible bidder may or may not be the lowest bidder. City staff and the city council will exercise reasonable discretion in determining the lowest responsive responsible bidder. Informalities and minor discrepancies may be waived by the purchasing agent or the city council. Inability, refusal or delay by the bidder in providing supplemental data as requested may, at the discretion of the purchasing agent, disqualify a bidder from consideration. The city reserves the right to reject any and all bids.

B. Any additional relevant data pertaining to the selected bidder shall be added to the purchase order or contract documents. If required by law, a written contract shall be entered into between the city and the selected bidder. Contracts involving construction work shall further provide for a bid security in the amount equal to at least five percent of the amount of the bid. (Ord. 270-00 (part): prior code § 3-3-100)

3.20.110 Delivery.

When supplies ordered are delivered, the purchasing agent, or the employee who requested the supplies, shall inspect the supplies received to assure that the correct quantity and quality have been delivered. If the supplies delivered are satisfactory, the supplies shall be accepted and a copy of the packing slip, invoice, or other delivery document shall be stapled to the purchase order and forwarded to the appropriate employee for review, payment and filing. (Ord. 270-00 (part): prior code § 3-3-110)

3.20.120 Petty cash.

A. Fund. The city shall maintain a petty cash fund. The total amount of cash, vouchers, and receipts in the petty cash fund shall not exceed one hundred dollars ($100.00). The petty cash fund shall be kept in a locked box and maintained by the finance department.

B. Limits. Any employee of the city may receive up to fifty dollars ($50.00) from the petty cash fund for any lawful and necessary expenditure to be made on behalf of the city. Employees shall not receive any money from the petty cash fund for personal use.

C. Procedure. Any employee receiving money from the petty cash fund shall sign a petty cash voucher showing the amount received and an explanation of the intended use of the money. Within a reasonable time after making the expenditure, the employee shall return any excess money to the petty cash fund and staple the receipt for the expenditure to the petty cash voucher.

D. Replenishing Fund. When money in the petty cash fund becomes less than approximately twenty-five dollars ($25.00), the purchasing agent shall draft a check to the petty cash fund to raise the amount of currency in the fund to one hundred dollars ($100.00). (Ord. 270-00 (part): prior code § 3-3-120)

3.20.130 Disposal of surplus property.

The city shall have the authority to sell, lease, convey and dispose of real and personal property for the benefit of the city as provided by Utah Code Ann. § 10-8-2, as amended.

3.20.140 Ethics.

A. Conflicts of Interest. No officer or employee of the city may have a direct or indirect pecuniary interest in any contract entered into by the city and all officers and employees are required to comply with applicable provisions of the Municipal Code and state law regarding ethics, including the Utah Municipal Officers' and Employees' Ethics Act, Utah Code Ann. § 10-3-1301, et seq., as amended.

B. Collusion. Any agreement or collusion among bidders or prospective bidders to bid a fixed price or to otherwise restrain competition shall render the bids of such bidders void.

C. Personal Use. Any purchase of supplies or equipment by the city for the personal use of any officer or employee of the city is prohibited.

D. Violation. Any violation of this section by an officer or employee of the city shall be cause for disciplinary action, up to and including termination, in accordance with the disciplinary procedures of the city. (Ord. 270-00 (part): prior code § 3-3-140)

3.20.150 Records.

All procurement records of the city shall be retained and disposed of in accordance with Chapter 2.56. (Ord. 270-00 (part): prior code § 3-3-150)

3.20.160 Violations.

Any purchase or contract executed in violation of the provisions of this chapter or applicable state law shall be void as to the city, and any funds expended thereupon may be recovered by the city through appropriate action. (Ord. 270-00 (part): prior code § 3-3-160) Any unauthorized purchases incurred on behalf of the City by any person who is not an employee or officer of the City shall be void as to the City, and any funds expended thereupon may be recovered by the City through appropriate action. Furthermore, any person who is not an

employee or officer of the City and who purchases, or attempts to purchase on behalf of the City may be prosecuted to the fullest extent of the law.

3.20.170 Appeals.

A. Determinations Final. Determinations of the purchasing agent and the city council required in this chapter shall be final and conclusive.

B. Appeal. Any person aggrieved by a determination of the purchasing agent or city council or in connection with the provisions of this chapter may appeal the determination or action within ten (10) days after the aggrieved person knows or should have known of the facts giving rise thereto by filing a written protest and the reasons therefor with the city council. A protest with respect to an invitation for bids shall be submitted in writing prior to the opening of bids unless the aggrieved person did not know or could not have known of the facts giving rise to the protest prior to bid opening.

C. Decision. The city council shall promptly issue a written decision regarding any protest stating the reasons for the decision and informing the protestor of any right to judicial review as provided by law. A copy of the decision shall be provided to all parties.

D. Settlement. The city council shall have the authority, prior to or after the commencement of an action in court concerning the protest, to settle and resolve the protest. (Ord. 270-00 (part): prior code § 3-3-170)

Ordinance 323-11, adopted January 18, 2011

Chapter 3.22 IMPACT FEES

Sections:

3.22.010 Purpose

This Impact Fee Policy is promulgated pursuant to the requirements of the Impact Fees Act, Utah Code Annotated §11-36-101-501 (the "Act"). This ordinance establishes impact fees within the West Bountiful City-wide Service Area, describes certain capital improvements to be funded through impact fees and provides a schedule of impact fees for differing types of land-use development, and sets forth direction for challenging and appealing impact fees.

3.22.020 Definitions

Words and phrases that are defined in the Act shall have the same definition in this Impact Fee Policy. The following words and phrases shall have the following meanings:

A. "**Capital Projects Summary**" refers to the Capital Improvements Plan requirement in Section 11-36-201(2)(e) of the Act which states that any city of 5,000 or less in population shall complete a reasonable Capital Projects Summary. The City has met this requirement by completing a Capital Projects Summary for culinary water, storm water drainage, parks & recreation, and public safety facilities in accordance with the Act. The Capital Projects Summary is included in Appendix B, the contents of which are hereby incorporated as though fully set forth herein.

B. "**Development activity**" means any construction or expansion of building, structure or use, any change in use of building or structure, or any change in the use of land that creates additional demand and need for public facilities. Development activity will include residential and commercial users who will connect to the City's water system and will utilize the City's storm water, parks and recreation, and public safety systems.

C. "**Development approval**" means any written authorization from the City that authorizes the commencement of development activity.

D. "**City**" means a local political subdivision of the State of Utah and is referred to herein as West Bountiful City (the "City").

E. "**Impact fee**" means a payment of money imposed upon development activity as a condition of development approval. "Impact fee" includes development impact fees, but does not include a tax, a special assessment, a hookup fee, a building permit fee, a fee for project improvements, or other reasonable permit or application fees.

F. "**Project improvements**" means site improvements and facilities that are planned and designed to provide service for development resulting from a development activity and are necessary for the use and convenience of the occupant or users of development resulting from a development activity. "Project improvements" do not include "system improvements" as defined below.

G. "**Proportionate share**" of the cost of public facility improvements means an amount that is roughly proportionate and reasonably related to the service demands and needs of a development activity.

H. "**Public facilities**" means Culinary Water, Storm Water, Parks & Recreation, and Public Safety improvements of the City for the West Bountiful City-wide Service Area.

I. "**Service area**" refers to a geographic area designated by the City based on sound planning or engineering principles in which a defined set of the City's public facilities provides service. The service area for purposes of the Written Impact Fee Analysis includes all areas within the jurisdictional boundaries of the City. (Appendix A: Map of the West Bountiful City-wide Service Area)

J. "**System improvements**" refer both to existing public facilities designed to provide services within the West Bountiful City-wide Service Area and to future public facilities identified in reasonable plan for capital improvements adopted by the City that are intended to provide service to the West Bountiful Citywide Service Area. "System improvements" do not include "Project improvements" as defined above.

3.22.030 Written Impact Fee Analysis

Executive Summary. A summary of the findings of the Written Impact Fee Analysis that is designed to be understood by a lay person is included in Appendix C and demonstrates the need for impact fees to be charged to fairly show costs related to capital infrastructure. A copy of the Executive Summary is included in the Written Impact Fee Analysis and has been available for public inspection prior to the adoption of this ordinance.

Written Impact Fee Analysis. The City has prepared a Written Analysis for the Culinary Water, Storm Water, Parks & Recreation, and Public Safety impact fees that identifies the impact upon the individual systems required by the development activity and demonstrates how those impacts on system improvements are reasonably related to the development activity, estimates the proportionate share of the costs of impacts on system improvements that are reasonably related to the development activity and identifies how the impact fees are calculated. A copy of the Written Impact Fee Analysis is included in Appendix C of the Impact Fee Ordinance and has been available for public inspection prior to the adoption of this ordinance.

Proportionate Share Analysis. The City has prepared a Proportionate Share Analysis analyzing whether or not the proportionate share of the costs of public facilities is reasonably related to the new development activity. The Proportionate Share Analysis identifies the costs of existing public facilities, the manner of financing existing public facilities, the relative extent to which new development will contribute to the cost of existing facilities and the extent to which new development is entitled to a credit for payment towards the costs of new facilities from general taxation or other means apart from user charges in other parts of the City. A copy of the Proportionate Share Analysis is included in the Written Impact Fee Analysis and has been available for public inspection prior to the adoption of this ordinance.

3.22.040 Impact Fee Calculations

A. **Ordinance Enacting Impact Fees.** The City Council will, by this ordinance, approve an impact fee schedule in accordance with the Written Imp act Fee Analysis set forth in Appendix C: West Bountiful Citywide Written Impact Fee Analysis.

1. **Elements.** In calculating the impact fee, the City has included the construction costs, land acquisition costs, costs of improvements, fees for planning, surveying, and engineering services provided for and directly related to the construction of system improvements, and

debt service charges if the City might use impact fees as revenue stream to pay principal and interest on bonds or other obligations to finance the cost of system improvements.

2. **Notice and Hearing.** Before approving the ordinance, the City will hold a public hearing on December 17, 2002, and make a copy of the ordinance, Written Impact Fee Analysis, and corresponding Capital Facilities Plan available to the public in the West Bountiful City library and the West Bountiful City offices at least fourteen (14) days before the date of the hearing, all in conformity with the requirements of Utah Code Annotated 10-9-103(2). After the public hearing, the City Council may adopt or reject the impact fee ordinance as proposed or amend the impact fee ordinance and adopt or reject it as amended.

3. **Adjustments.** The standard impact fee may be adjusted at the time the fee is charged in response to unusual circumstances or to fairly allocate costs associated with impacts created by a development activity or project. The standard impact fee may also be adjusted to insure that impact fees are imposed fairly for affordable housing projects, in accordance with the local government's affordable housing policy, and other development activities with broad public purposes.

4. **Previously Incurred Costs.** To the extent that the new growth and development will be served by previously constructed improvements, the City's impact fee may include outstanding bond costs related to the existing culinary water, storm water, parks & recreation, and public safety improvements. These costs may include all projects included in the reasonable capital projects plan which are under construction or completed but have not been utilized to their capacity, as evidenced by outstanding debt obligations.

B. **Developer Credits.** Development may be allowed a credit against impact fees for any dedication or improvement to land or new construction of system improvements provided by the developer provided that (i) it is identified in the City's Capital Facilities Plan and (ii) required by the City as a condition of approving the development activity. Otherwise, no credit may be allowed.

C. **Impact Fees Accounting.** The City will establish separate interest-bearing ledger accounts for each type of public facility for which an impact fee promulgated in accordance with the requirements of the Impact Fees Act deposited in the appropriate ledger account. Interest earned on each fund or account shall be segregated to that account. Impact fees collected prior to the effective date of this Ordinance need not meet the requirements of this section.

1. **Reporting.** At the end of each fiscal year, the City shall prepare a report on each fund or account generally showing the source and amount of all monies collected, earned and received by the fund or account and each expenditure from the fund or account.

2. **Impact Fee Expenditures.** The City may expend impact fees covered by the Impact Fees Policy only for system improvements that are (i) public facilities identified in the City's reasonable capital projects plan and (ii) of the specific public facility type for which the fee was collected.

3. **Time of Expenditure.** Impact fees collected pursuant to the requirements of this Impact Fees Policy are to be expended, dedicated or encumbered for a permissible use within six years of the receipt of those funds by the City, unless the City Council otherwise directs. For

purposes of this calculation, the first funds received shall be deemed to be the first funds expended.

4. **Extension of Time.** The City may hold previously dedicated or unencumbered fees for longer than six years if it identifies in writing (i) an extraordinary and compelling reason why the fees should be held longer than six years and (ii) an absolute date by which the fees will be expended.

D. **Refunds.** The City shall refund any impact fees paid by a developer, plus interest actually earned when (i) the developer does not proceed with the development activity and files a written request for a refund; (ii) the fees have not been spent or encumbered; and (iii) no impact has resulted. An impact that would preclude a developer from a refund from the City may include any impact reasonably identified by the City, including, but not limited to, the City having sized facilities and/or paid for, installed and/or caused the installation of facilities based, in whole or in part, upon the developer's planned development activity even though that capacity may, at some future time, be utilized by another development.

E. **Other Impact Fees.** To the extent allowed by law, the City Council may negotiate or otherwise impose impact fees and other fees different from those currently charged. Those charges may, in the discretion of the City Council, include, but not be limited to, reductions or increases in impact fees, all or part of which may be reimbursed to the developer who installed improvements that service the land to be connected with the City's system.

F. **Additional Fees and Costs.** The impact fees authorized hereby are separate from and in addition to user fees and other charges lawfully imposed by the City, and other fees and costs that may not be included as itemized component parts of the Impact Fee Schedule. In charging any such fees as a condition of development approval, the City recognizes that the fees must be a reasonable charge for the service provided.

G. **Fees Effective at Time of Payment.** Unless the City is otherwise bound by a contractual requirement, the impact fee shall be determined from the fee schedule in effect at the time of payment in accordance with the provisions of Section 6 below.

H. **Imposition of Additional Fee or Refund After Development.** Should any developer undertake development activities such that the ultimate density or other impact of the development activity is not revealed to the City, either through inadvertence, neglect, a change in plans, or any other cause whatsoever, and/or the impact fee is not initially charged against all units or the total density within the development, the City shall be entitled to charge an additional impact fee to the developer or other appropriate person covering the density for which an impact fee was not previously paid.

3.22.050 Maximum Allowable Impact Fees Schedule

CULINARY WATER IMPACT FEE SCHEDULE

The Culinary Water Impact Fees shall be assessed as follows:

CULINARY WATER SYSTEM IMPACT FEE

Water Meter Size Equivalent ERUs Impact Fee

¾" 1.0 $2812

1" 1.4 3,937

1 ½" 1.8 5,059

2" 2.9 8,152

3" 11.0 30,925

4" 14.0 39,361

STORM WATER IMPACT FEE SCHEDULE

The Storm Water Impact Fees shall be assessed as follows:

STORM WATER SYSTEM IMPACT FEE PER ERU

Lot Size Impact Fee

10,000 - 12,700 $506.75

12,701 - 18,150 $533.38

18,151 - 27,250 $666.77

27,251 - 38,150 $920.15

38,151 - 43,560 $1,066.84

>43,651 $25.50 per 1000 s.f

Commercial Units and Multi-Family Dwelling Residential

Units / per 1000 sq.ft.

Use Impact Fee / 1000 sq.ft. Lot size

Agricultural $14.69

Light Industrial $97.96

Heavy Industrial $110.21

General Commercial $102.86

Neighborhood Commercial $102.86

Business $102.86

Shopping Centers $116.33

Multi-family (detached) $73.47

Multi-family (attached) $91.84

Apartments $85.72

PARKS & RECREATION IMPACT FEE SCHEDULE

The Parks & Recreation Impact Fees shall be assessed as follows:

PARKS & RECREATION IMPROVEMENTS IMPACT FEE

Development Type Fee

Low-Density Residential $1,099.68 per Dwelling Unit

Medium-Density Residential $939.12 per D welling U nit

PUBLIC SAFETY IMPACT FEE SCHEDULES

The Police Facilities Impact Fees shall be assessed as follows:

POLICE FACILITIES IMPACT FEE

Development Type Fee

All Residential Classes $148.07 per D welling U nit

All Non-Residential Classes $19.51 per 1,000 of Lot Space

PUBLIC SAFETY FIRE IMPACT FEE SCHEDULES

The Public Safety Fire Impact Fees shall be assessed as follows:

FIRE DISTRICT FACILITIES IMPACT FEE

Development Type Fee

Single Family $378.00 per dwelling unit

Multi-Family $169.00 per dwelling unit

Hotel/Motel $258.00 per room

Nursing Home $3,887.00 per room

Commercial $1,719.00 per acre

Office $1,321.00 per acre

School $2,212.00 per acre

Church $236.00 per acre

Industrial $436.89 per acre

ROADWAY IMPACT FEE SCHEDULES

Land Use Categories Trip Ends Adjustment

Factor

Impact Fee

Cost per trip $ 53.78

Non-Residential (per 1,000 Sq. Ft. of bldg)

Agricultural 2.5 40.00% $ 5.78

General Commercial 42.9 21.00% $ 484.54

Manufacturing Distribution 3.8 45.00% $ 91.97

Professional Office 11.4 50.00% $ 306.57

Business Park 12.8 45.00% $ 309.80

Mixed Commercial 22.0 45.00% $ 532.46

Shopping Center 50.0 21.00% $ 564.73

Convenience Market w/gas pumps 845.6 5.00% $ 2,273.98

Warehousing 5.0 45.00% $ 121.01

Recreational Center 13.6 21.00% $ 153.61

Hotel 8.2 21.00% $ 92.62

Bank w/drive-up window 265.2 10.00% $ 1,426.40

Movie Theater 44.5 40.00% $ 958.00

Specialty Shops 40.7 21.00% $ 459.35

Outlets 26.6 21.00% $ 300.32

Restaurants 90.0 35.00% $ 1,693.25

Fast Food Restaurants 496.1 10.00% $ 2,668.33

Residential (per Dwelling U nit)

Low Density Residential 9.6 50.00% $ 258.16

3.22.060 Fee Exceptions and Adjustments

1**. Waiver for "Public Purpose".** The City Council may, on a project by project basis, authorize exceptions or adjustments to the then Impact Fee rate structure for those projects the City Council determines to be of such benefit to the community as a whole to justify the exception or adjustment. Such projects may include facilities being funded by tax-supported agencies, affordable housing projects, or facilities of a temporary nature.

a. **Procedures.** Applications for exceptions are to be filed with the City at the time the applicant first requests the extension of service to the applicant's development or property.

3.22.070 APPEAL PROCEDURE

1**. Application.** The appeal procedure applies both to challenges to the legality of impact fees, to similar and related fees of the City and to the interpretation and/or application of those fees. By way of illustration, in addition to the legality of the impact fee schedule, determinations of the density of a development activity or calculation of the amount of the impact fee due will also be subject to this appeal procedure.

2. **Declaratory Judgment Action.** Any person or entity residing in or owning property within the City and any organization, association or corporation representing the interests of persons or entities owning property within the City may file a declaratory judgment action challenging the validity of an impact fee only after having first exhausted their administrative remedies of this Section.

3. **Request for Information Concerning the Fee.** Any person or entity required to pay an impact fee may file a written request for information concerning the fee with the City. The City will provide the person with the Written Imp act Fee Analysis and other information relating to the impact fee within fourteen (14) days after receipt of the request for information.

4. **Appeal to the City Before Payment of the Impact Fee.** Affected or potentially affected person or entity wishing to challenge an impact fee prior to payment may file a written request for information concerning the fee and proceed under the appeal procedure.

5. **Appeal to the City After Payment of the Impact Fee; Statute of Limitations for Failure to File.** Any person or entity that has paid an imp act fee and wishes to challenge the fee shall file a written request for information concerning the fee within thirty (30) days after having paid the fee and proceed under the City's appeal procedure. If thirty (30) days has passed after payment of the impact fee and a written request for information or challenge has not been filed with the City, the person or entity is barred from filing an administrative appeal with the City or seeking judicial relief.

6. **Appeal to the City.** Any developer, landowner or affected party desiring to challenge the legality of any impact fee or related fee or exaction may appeal directly to the City Council by filing a written challenge with the City, provided that the affected party does so in writing within thirty (30) days after the action or decision to which the appeal relates. If no written challenge is filed with the City within the said thirty- (30) day's period, the affected party may neither process an administrative appeal with the City nor seek judicial relief.

a. **Hearing**. An informal hearing will be held not sooner than five (5) nor more than twenty-five (25) days after the written appeal to the City Council is filed.

b. **Decision.** After the conclusion of the inform al hearing, the City Council, by majority vote, shall affirm, reverse, or take action with respect to the challenge or appeal as the City Council deems to be appropriate in light of the City's policies and procedures and any applicable law, rule or regulation.

The decision of the City Council may include the establishment or calculation of the impact fee applicable to the development activity at issue; any impact fee set by the City Council may include the establishment or calculation of the impact fee applicable to the development activity at issue. Fees set by the City Council may be the same as or higher or lower than that being appealed provided that it shall not be higher than the maximum allowed under the City's lawful impact fee rate or formula which is either in existence on the effective date of the Act or as promulgated under the Impact Fees Policy, as appropriate. The decision of the City Council will be issued within thirty (30) days after the date the written challenge was filed with the City as mandated by Utah Code Annotated §11-36-401 (4) (b). In light of the statutorily mandated time restriction, the City shall not be required to provide more than three (3) working days prior notice of the time, date and location of the informal hearing and the inconvenience of the hearing to the challenging party shall not serve as a basis of appeal of the City's final determination.

7. **Denial Due to Passage of Time.** Should the City, for any reason, fail to issue a final decision on a written challenge to an impact fee, its calculation or application, within thirty (30) days after the filing of that challenge with the City, the challenge shall be deemed to have been denied and any affected party to the proceedings may seek appropriate judicial relief from such denial.

8. **Judicial Review.** Any party to the administrative action who is adversely affected by the City's final decision must petition the District Court for a review of the decision within ninety (90) days of a final City decision upholding an impact fee, its calculation or application, or within one hundred twenty

(120) days after the written challenge to the impact fee, its calculation or application, was filed with the City, whichever is earlier.

a. **Record of Proceedings.** After having been served with a copy of the pleadings initiating the District Court review, the City shall submit to the Court the record of the proceedings before the City, including minutes, and if available, a true and correct transcript of any proceedings. If the City is able to provide a record of the proceedings, the District Court's review is limited, by Utah Code Annotated §11-36-401 (5) (c) to the record of the Court may not accept or consider evidence outside of the record of proceedings before the City unless the evidence was offered to the City and improperly excluded in the proceedings before the City. If the record is inadequate, however, the Court may call witnesses and take evidence. The Court is to affirm the City's decision if the decision is supported by substantial evidence in the record.

3.22.080 Miscellaneous

1. **Severability.** If any section, subsection, paragraph, clause or phrase of this Impact Fee Policy shall be declared invalid for any reason, such decision shall not affect the remaining portions of this Impact Fee Policy, which shall remain in full force and effect, and for this purpose, the provisions of this Impact Fee Policy are declared to be severable.

2. **Interpretation.** This Impact Fee Policy has been divided into sections, subsections, paragraphs and clauses for convenience only and the interpretation of this Impact Fee Policy shall not be affected by such division or by any heading contained herein.

3. **Effective Date.** Except as otherwise specifically provided herein, this Impact Fee Policy shall not repeal, modify or affect any impact fee of the City in existence as of the effective date of this Ordinance. All impact fees established, including amendments and modifications to previously existing impact fees, after the effective date of this Ordinance shall comply with the requirements of this Impact Fee Policy.

Title 4 – Reserved

Title 5 BUSINESS LICENSES AND REGULATIONS

Chapters:

Chapter 5.04 BUSINESS LICENSES IN GENERAL

Sections:

5.04.010 Definitions.

For the purposes of this chapter the following terms shall have the meanings herein prescribed:

"**Business**" means all activities engaged in within the corporate limits of West Bountiful carried on for the purpose of gain or economic profit, except that employees rendering service to employers shall not be considered to be engaging in business unless otherwise specifically prescribed.

"**Engaging in business**" means the sale of tangible personal property or the rendering of personal services for others for a consideration by persons engaged in any trade, craft, business, occupation, profession or other calling, except the rendering of personal services by an employee to his or her employer under any contract of personal employment, but includes the operation of storage buildings or storage warehouses for the storing of motor vehicles, trailers, boats, and other household equipment or personal property.

"**Employee**" means the operator, owner or manager of a business and any persons employed by such person in the operation of the business in any capacity, including any salesperson, agent or independent contractor engaged in the operation of the business in any capacity.

"**Number of employees**" means the average number of employees engaged in business each regular working day during the preceding calendar year. In computing this number each regular full-time employee shall be counted as one employee, and each part-time employee shall be counted as that fraction which is formed by using the total number of hours worked by such employee as the numerator and the total number of hours regularly worked by a full-time employee as the denominator.

"**Person**" means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, co-partnership, joint venture, club, company, joint stock company, business trust, corporation, association, society or other group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.

"**Gross sales**" shall not include:

1. The amount of any federal tax, except excise taxes imposed upon or with respect to retail or wholesale, whether imposed upon the retailer, wholesaler, jobber, or upon the consumer and regardless of whether or not the amount of federal tax is stated to customers as a separate charge; and

2. The amount or net Utah State Sales Tax. The term "gross sales" includes the amount of any manufacturer's or importer's excise tax included in the price of the property sold, even though the manufacturer or importer is also the wholesaler or retailer thereof, and whether or not the amount of such tax is stated as a separate charge. (Prior code § 5-1-1)

5.04.020 License required.

It is unlawful for any person to engage in or carry on any business within the city without first taking out or procuring a license to do so. (Prior code § 5-1-2)

5.04.030 Application for license.

All applications for a business license shall be made in writing to the city recorder and filed for each place of business, service or profession within the city. All such applications shall be verified and contain the following information:

A. The name of the person desiring the license; if a partnership, the names of all of the partners, and if a corporation, the names of the principal officers thereof;

B. The kind of business desired, stating the type and nature of the business to be carried on;

C. The exact location of the place where such business is to be carried on, describing the same by street number; if only a part of the premises at a given address is to be occupied for the licensed business, then the exact description of the part which is to be so occupied; and

D. The amount of gross sales or gross income received by the business during the twelve (12) months immediately preceding application for the license; if a new business is involved, the anticipated gross sales or gross income for the remainder of the calendar year to be covered by such license. If at the end of the first license period the new business has exceeded by ten (10) percent its anticipated gross sales or gross income as stated in the original application, the person responsible for the new business shall file an amended application and shall pay any additional license fees due for that period. This amended application shall set forth the business' actual gross sales or gross income. (Prior code § 5-1-3)

5.04.040 License fee levied.

The license fee payable by persons engaging in or carrying on any business within the city shall be periodically fixed by resolution of the city council. (Prior code §5-1-4)

5.04.050 License additional to all regulatory licenses.

Except as otherwise expressly provided, the license fee imposed by this chapter shall be in addition to any and all other taxes or licenses imposed by any other provisions of the ordinances of the city. (Prior code § 5-1-5)

5.04.060 License year.

The license year herein shall be the calendar year. (Prior code § 5-1-6)

5.04.070 Delinquent date and penalty.

All license fees provided for herein shall be due and payable on or before January 5th of any calendar year, or before commencing a new business. In the event any fee is not paid on or before such date, a penalty of fifty (50) percent of the amount due shall be imposed and shall become a part of the license fee imposed by this chapter. The date of delinquency and the amount of the penalty may be amended periodically by resolution of

the city council provided that the application of the amended date and penalty be prospective only, effective the next calendar year. (Prior code § 5-1-7)

5.04.080 Records to be maintained.

It shall be the duty of every person liable for the payment of any license fee imposed by this chapter to keep and preserve for a period of three years such books and records as will allow the city to determine the amount of any license fee for which he or she may be liable under the provisions of this chapter. This will include records accurately reflecting the amount of his or her gross annual sales of goods and services and the number of persons employed by the business. (Prior code § 5-1-8)

5.04.090 Returns not to be public.

Actual returns of gross sales or gross income or the amounts thereof made to the city recorder as required by this chapter shall not be made public nor shall such be subject to the inspection of any person except the city recorder or his or her authorized agent, or to those persons authorized by order of the city council. It is unlawful for any person to make public or to inform any other person as to the contents of any return, except as is in this section authorized. (Prior code § 5-1-9)

5.04.100 Unlawful to provide false information.

It is unlawful for any person to provide false information to the city in relation to the application for, issuance of, or continuation of, a business license, or to knowingly cause or permit the same to be done. (Prior code § 5-1-10)

5.04.110 Denial or revocation of business license.

A. A business license may be denied or revoked for any good cause reasonably related to the health, safety or general welfare of the residents of West Bountiful City, including but not limited to the violation of any federal, state or local law (including the provisions of this chapter).

B. Unless the mayor shall otherwise direct, the decision to deny or revoke a business license shall be made by the city recorder. Any such decision shall be in writing, including a simple statement of the reasons therefore. The denial or revocation shall take effect after the written decision has been filed in the records of the city recorder and a copy thereof has been mailed to the applicant or license holder at the address listed in that person's application. If the applicant or license holder was present when the decision to revoke or deny was made, or is otherwise personally aware of the decision, the denial or revocation shall be effective when the written decision is filed in the records of the city recorder.

C. Any person aggrieved by a decision to deny or revoke a business license may appeal that decision by filing a written notice of appeal with the city recorder within fifteen (15) days of the effective date of the denial or revocation.

D. An appeal of a decision to deny or revoke a business license shall be conducted as provided in Section 2.60.010 of these ordinances. (Prior code § 5-1-11)

5.04.120 License not transferable.

No license granted or issued under the provisions of this chapter shall in any manner be assignable or transferable, or authorize any person other than the licensee named therein to do business than is therein named to be done or transacted. (Prior code § 5-1-12)

5.04.130 Exemptions to license.

No license fee shall be imposed under this chapter upon the following:

A. Any person engaged in business for solely religious, charitable or other type of strictly nonprofit purpose who is tax-exempt in such activities under the laws of the United States and the state of Utah.

B. Any person engaged in a business specifically exempted from municipal taxation and fees by the laws of the United States or the state of Utah.

C. Upon any person selling, offering for sale, or taking orders for or soliciting the sale of any farm products, but not including dairy products, actually produced, raised or grown by the person so selling, offering for sale or taking orders for, or soliciting the sale of any such farm products. (Ord. 263-99 (part); prior code § 5-1-13)

5.04.140 Reciprocal license agreement.

The city council may enter into reciprocal license agreements with adjoining towns or cities for the forbearance of the collection of license fees, upon such terms and conditions as it deems advantageous to the city. (Prior code § 5-1-14)

Chapter 5.06 SOLICITORS, CANVASSERS, AND PEDDLERS

5.06.010 License Required.

It is unlawful for any person to engage in the business of solicitor, canvasser, or peddler without first obtaining a permit and\or license therefore as provided in this chapter.

5.06.020 Definitions.

(a) "**Peddler**" as used in this chapter shall include a person, whether or not a resident of West Bountiful City, traveling by foot, wagon, motor vehicle, or any other type of conveyance, from place, from house to house, or from street to street carrying, conveyance, or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck farm products or provisions, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, motor vehicle, or other vehicle or conveyance. It is further provided that one who solicits orders and as a separate transaction makes deliveries to purchasers as part of a scheme or design to evade the provisions of this chapter shall be deemed a peddler subject to the provisions of this chapter. The word "peddler" shall include the words "hawker and "huckster"

(b) "**Canvasser**" or "**solicitor**" means any individual whether or not a resident of West Bountiful City, traveling either by foot, wagon, motor vehicle, or other type of conveyance, from place to place, from house, to house, or from street to street, taking or attempting to take orders for the sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries, or exposes for sale a sample of the subject of such sale, or collects advance payments of such sale, provided that such definition shall include any person who for himself, or for another person, firm or corporation, hires, leases, uses or occupies any building, structure, tent, hotel or motel room, samples and taking orders for delivery.

5.06.030 Application for License.

(a) Applicants for permits and licenses under this chapter, shall file a sworn application in writing signed by the applicant, if an individual, by all partners, if a partnership, and by the president if a corporation, or by an agent, including a state or regional agent, with the Planning Licensing Department which shall give the following information:

(1) The name of the applicant and if the applicant is an employee or agent of a corporation, the name of the corporation.

(2) The address of the applicant, and if the applicants is an agency or employee of a corporation, the address of the corporation.

(3) A brief description of the nature of the business and the goods to be sold and from whom and where the applicant obtains the goods to be sold.

(4) If the applicant is employed by or an agent of another person, the name and permanent address of such other person or persons.

(5) The length of time for which the applicant desires to engage in business within the city.

(6) A list of the other municipalities in which the applicant has engaged in business within the six month period preceding the date of the application.

(7) A photograph of the applicant, taken within six months immediately prior to the date of filing the application. The photograph shall be one and one-half (1 1/2) inches by one and one- half (1 ½) inches showing the head and shoulders of the applicant in a clear and distinguishing manner.

(8) A statement as to whether or not the applicant, or any of his employers, have been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty.

(9) If the applicant desires to sell fresh vegetables, fruits, meats, or other foodstuffs, a statement by a reputable physician in the State of Utah, dated not more than ten (10) days prior to submission of the application, certifying the applicant to be free of infectious, contagious, or communicable diseases.

(10) If the applicant is employed by another person, firm or corporation, documents showing that the person, firm or corporation for which the applicant proposes to do business is authorized to do business within the State of Utah.

(b) Each applicant shall, at their own expense, obtain a personal background investigation the Bureau of Criminal Identification (BCI) in Salt Lake City, Utah and submit a certified copy of said report with the application

5.06.040 Review and Issuance of License.

(a) The applicant(s) for a solicitors license shall present to the Director of Licensing a certified clearance from the Bureau of Criminal Identification (BCI) for each solicitor operating under said license.

(b) On receiving the application, the Director of Licensing shall refer the application to the Chief of Police who shall review the background report of the applicant's business and moral character.

(c) If as a result of the review, the applicant's character and business responsibility are found to be satisfactory, the Chief of Police shall endorse such upon the application and return it to the Director of Licensing who shall

upon payment of the prescribed license fee deliver to the applicant their permit and issue a license. The license shall contain the signature of the issuing officer and shall show the name, address and photograph of the licensee, the kind of goods to be sold pursuant to the application, and the expiration date of the license.

(d) If as a result of the review, the applicant's character and business responsibility are found to be unsatisfactory, the Chief of Police shall endorse such upon the application together with a statement of his reasons therefore and return the application to the Director of Licensing who shall notify the applicant that their application has been disapproved and that no permit and license will be issued.

5.06.050 Fees and Time Limit.

(a) Base fee for any license issued under this Chapter shall be $25.00 per business plus $5.00 per week or $20.00 per month per solicitor.

(b) Any license issued under this Section shall be for a period not to exceed one hundred and twenty (120) days.

(c) The effective issuance date of the license as herein provided shall be ten (10) days from the date that said person made application for such license. Said license shall not be transferrable to another person by the holder thereof.

(d) None of the license fees provided for by its part shall be applied so as to engage an undue burden upon interstate commerce.

In any case where a license fee is believed by the licensee or applicant for license to place an undue burden upon interstate commerce, he or she may apply to the City Administrator for an adjustment of the fee so that it will not be discriminatory, unreasonable or unfair to interstate commerce. Such application may be made before, at or within six (6) months after paying the prescribed license fee.

5.06.060 Licenses.

(a) The Director of Licensing shall issue to each licensee a laminated license card which shall read "West Bountiful Solicitor License" along with a license number. Such license shall be constantly carried by the licensee while engaging in business in West Bountiful City and exhibit such license card upon request by anyone desiring proof of such license.

(b) It shall be the duty of any police officer of West Bountiful City to require any person seen soliciting, canvassing or peddling, and who is not known by such officer to be duly licensed, to produce his or her license and to enforce the provisions of this chapter.

5.06.070 Revocation of License.

(a) Permits and licenses issued pursuant to this chapter may be revoked by the City Administrator, after notice and hearing, for any of the following causes:

(1) Fraud, misrepresentation or a false statement contained in the application for the license.

(2) Fraud, misrepresentation or a false statement made in the course of carrying on their business as a solicitor, canvasser or peddler.

(3) Any violation of this chapter.

(4) Conviction of any crime or misdemeanor involving moral turpitude.

(5) Conducting the business of soliciting, or of canvassing or peddling in an unlawful manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

(6) Soliciting before the hour of 10:00 A.M. and after the hour of 6:00 P.M.

5.06.080 Appeals.

Any person aggrieved by the action of the City Attorney in the revocation of a license or the action of the Director of Licensing in the denial of a license pursuant to this chapter, may appeal such action to the City Council. Such appeal shall be filed with the City Recorder within fourteen (14) days after notice of the action complained of has been mailed to such person. A written statement setting forth fully the grounds for the appeal shall be included with the appeal.

The City Council shall set a time and place for the hearing on such appeal and notice of such hearing shall be given to the applicant in the same manner as above provided in Subsection B of Section 5-5-106.

5.06.090 Exceptions.

Nothing in this chapter is intended to require a soliciting license for soliciting by:

(a) Non-profit, charitable, or religious institutions qualified and authorized as such by the State of Utah.

(b) Persons soliciting at a residence pursuant to an appointment previously made with responsible individuals or occupants of such residence.

(c) Local Church, school, charitable or civic groups when engaged in fund raising projects.

5.06.101 License Required.

(a) It is unlawful to conduct a temporary business without first having obtained a Temporary Business License.

(b) A temporary business license may be issued to a temporary business meeting all of the following requirements:

(1) The conduct of the requested use will not have any detrimental effects on adjacent properties and will be in general harmony with surrounding uses.

(2) The requested use will not create excessive traffic hazards on adjacent streets.

Sufficient off-street parking shall be provided which shall be designed to meet all City parking regulations. A site plan showing where the sale of goods will take place, points of ingress and egress to the site, and parking available for the temporary business shall be provided.

(3) The applicant has obtained, or shall obtain, all necessary City permits associated with the placement and operation of the use, i.e., Health Department approvals for sales of food items, electrical permit for electrical hookups, fire department clearance for fireworks stands, etc.

(4) The applicant shall provide, at its own expense, for the restoration of the site of said use to its original condition, including such clean up, washing and replacement of facilities as may be necessary.

(c) Prior to the granting of any license, the applicant must pay the license fee.

(d) Any person or business which engages in business prior to obtaining a business license from the City shall pay an administrative fee of $50.00 prior to the issuance of a license, which shall be in addition to the regular fee for the license.

5.06.102 License Fee.

A base fee of$25.00 plus $1.00 per day up to a maximum of $100.00 total fee will be required for any temporary license

5.06.103 Site Requirements.

Any site proposed for use for a temporary business must be on property with curb and gutter with adequate traffic ingress and egress. A site plan shall be submitted showing where the sales shall be conducted on the site along with the location of at least four off-street parking spaces specifically designated for use by the temporary business. Such spaces may not be designated for or required by ordinance for any permanent, on-site business and the temporary business may not occupy such parking. In no event shall the temporary business be located in any way as to obstruct the clear vision of traffic ingress or egress from the site.

5.06.104 Time Limit.

A temporary license shall be issued for a maximum of 120 days and shall be limited to one per business, corporation, individual, group of individuals or family per year.

5.06.105 Number of Businesses on Site.

Only one temporary business at a time shall be allowed on any given site, unless it can be shown that adequate ingress, egress and parking would be available for additional temporary businesses.

5.06.106 Signs.

One sign shall be allowed on the sales booth, table, stand or other sales structure for any licensed temporary business. No movable signs, banners, or off-premise signs shall be allowed.

5.06.107 Revocation of License.

(a) Permits and licenses issued pursuant to this chapter may be revoked by the Director of Licensing, after notice and hearing, or any of the following causes:

(1) Fraud, misrepresentation or a false statement contained in the application for the license.

(2) Fraud, misrepresentation or a false statement made in the course of operating the business for which the licenses has been granted.

(3) Any violation of this chapter.

(4) Conviction of any crime or misdemeanor involving moral turpitude.

(5) Conducting the temporary business in an unlawful manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

5.06.108 Appeals.

Any person aggrieved by the action of the Director of Licensing in the denial of a license pursuant to this chapter may appeal such action to the City Council. Such appeal shall be filed with the City Recorder within fourteen (14) days after notice of the action complained of has been mailed to such person. A written statement setting forth fully the grounds for the appeal shall be included with the appeal. The City Council shall set a time and place for the hearing on such appeal. The City Council shall set a time and place for the hearing on such appeal and notice of such hearing shall be given to the applicant.

Chapter 5.08 AMUSEMENT DEVICES

Sections:

5.08.010 Purpose.

The city council finds as fact and deems that in order to preserve the peace, health, safety and welfare of the inhabitants of the city, that the public patronage and use of amusement devices to be licensed and be subject to certain regulations as set forth in this chapter. (Prior code § 5-6-1)

5.08.020 Definitions.

For the purpose of this chapter, the following word shall have the following meaning:

"**Amusement device**" means a machine or device, whether mechanically or electronically operated, by means of the insertion of a coin, token or similar object, for the purpose of amusement or skill and for the play of which a fee is charged, or a device similar to any such machine or device but which has been manufactured, altered or modified so that operation is controlled without the insertion of coin, token or similar object. The term does not include coin-operated phonographs, ride machines designed primarily for the amusement of children, or vending machines in which are incorporated features of chance or skill. (Prior code § 5-6-2)

5.08.030 License required.

It is unlawful for any person to display for public patronage or operation any amusement device within this city without having first obtained a license therefor. (Prior code § 5-6-3)

5.08.040 Application for license.

Application for license hereunder shall be filed in writing with the city recorder on forms provided by the city. (Prior code § 5-6-4)

5.08.050 License fee.

The fee for the licenses provided in this chapter shall be set periodically by resolution of the city council and shall apply to each amusement device used, played or exhibited for use or play. This fee shall be paid annually. All licenses issued, as provided herein, shall be for a calendar year.

The license fee for the initial year of application shall be paid when the license is granted by the city council. All license fees that are paid for each year thereafter shall be a renewal license fee and shall be payable on or before January 5th of each calendar year.

In the event the renewal fee is not paid on or before such date, a penalty of fifty (50) percent of the amount due shall be imposed and shall become part of the license fee imposed by this chapter. This date of

delinquency and the amount of the penalty may be amended periodically by resolution of the city council; provided, that the application of the amended date and penalty be prospective only, effective the following calendar year. (Prior code § 5-6-5)

5.08.060 Referral to chief of police.

The application for such license, together with such information as is required by the city to be attached thereto, shall be referred to the chief of police for inspection and report. The chief of police shall, within fifteen (15) days after receiving such application, make a report to the city council. (Prior code § 5-6-6)

5.08.070 Display of license.

Every licensee under this chapter shall post and maintain such license upon the licensed premises in a place it may be seen at all times. (Prior code § 5-6-7)

5.08.080 License additional to all regular licenses.

The license fee imposed by this chapter shall be in addition to any and all other taxes or licenses imposed by any city ordinance. (Prior code § 5-6-8)

5.08.090 Gambling devices prohibited.

Nothing in this chapter shall in any way be construed to authorize, license or permit any gambling device whatsoever or any device which is in any way contrary to law. (Prior code § 5-6-9)

5.08.100 Maximum number of amusement devices allowed.

The maximum number of amusement devices that shall be allowable in or on any business premises for public patronage or keeping or displaying for public patronage shall be determined by a conditional use permit. (Prior code § 5-6-10)

5.08.110 Prohibitions and regulations.

It is unlawful for any licensee or any agent or employee of such licensee to permit, suffer or allow any person under the age of eighteen (18) years to use or operate any amusement device located in or upon the licensed premises during such time as public elementary, secondary and high school are in session. It shall also be unlawful for the amusement devices to be placed closer than one thousand five hundred (1,500) feet from any school or church and will be conditional in the general commercial and neighborhood commercial zones and not permitted in any other zones. (Prior code § 5-6-11)

5.08.120 Suspension or revocation of license--Hearing.

A. The city council may suspend, revoke or refuse to renew any license for any of the following causes:

1. Fraud or misrepresentation in its procurement;

2. Violation or failure to comply with all of the provisions of this chapter;

3. Failure to pay any license fee levied when due;

4. Violation of any city ordinance, state or federal statute involving moral turpitude;

5. Any conduct or act of the licensee or his or her employees or any act permitted by him or her or them on the premises where such business is conducted tending to render the business or the premises where the business is conducted a public nuisance or a menace to the health, peace or general welfare of the city;

6. A violation of city ordinance or federal or state statute relating to the business or activity licensed and resulting from the conduct of such business or activity; or

7. For good cause shown.

B. Hearing.

1. Before the city council shall suspend, revoke or refuse the renewal of any license, it shall first afford the licensee an opportunity in a hearing to show good cause why such license should not be suspended, revoked, or why such license should be renewed.

2. This hearing shall be conducted as provided in Section 2.60.010. (Prior code § 5-6-12)

Chapter 5.12 BEER LICENSES AND REGULATIONS

Sections:

5.12.010 Definitions.

The following words and phrases used in this chapter shall have the following meanings, unless a different meaning clearly appears from the context:

Alcoholic Beverage.

"**Beer**" and "**liquor**" as defined herein.

"**Beer**" means all products that contain 63/100 of one percent of alcohol by volume or one-half of one percent of alcohol by weight, but not more than four percent of alcohol by volume or 3.2 percent by weight, and are obtained by fermentation, infusion or decoction of any malted grain. Includes products known as "beer," "light beer," "malt liquor" or "malted beverages." Beer may or may not contain hops or other vegetable products.

"**Brewer**" means any person engaged in manufacturing beer, malt liquor or malted beverages.

"**Licensed premises**" means any room, house, building, structure or place occupied by any person licensed to sell beer on such premises under this chapter; provided, that in any hotel or other business establishment an applicant for Class B, C, or D license may designate a room or portion of a building of such business for the sale of beer, which portion so specifically designated in the application for a license and the license subsequently issued shall be the licensed premises.

"**Liquor**" means alcohol, or any alcoholic, spirituous, venous, fermented, malt or other liquid, or combination of liquids, a part of which is spirituous, vinous or fermented, and all other drinks, or drinkable liquids that contain more than one-half of one percent of alcohol by volume and is suitable to use for beverage purposes. "Liquor" does not include any beverage defined as a beer, malt liquor or malted beverage that has an alcohol content of less than four percent alcohol by volume.

"**Retailer**" means any person engaged in the sale or distribution of beer or liquor to the consumer.

"**Sell, sale and to sell**" means any transaction, exchange or barter whereby, for any consideration, an alcoholic beverage is either directly or indirectly transferred, solicited, ordered, delivered for value, or by any means or under any pretext is promised or obtained, whether done by a person as a principal, proprietor, or as an agent, servant or employee, unless otherwise defined in the Alcoholic Beverage Control Act or rules adopted pursuant thereto.

"**Wholesaler**" means any person, other than a licensed manufacturer, engaged in the importation for sale, or in the sale of beer, malt liquor, or malted beverages in wholesale or jobbing quantities to retailers. (Prior code § 5-3-1)

5.12.020 License necessary to sell beer at retail.

It is unlawful for any person to sell beer at retail, in bottles, or other original containers, without a license therefor from the city council as hereinafter provided. A separate license shall be required for each place of sale and the license shall at all times be conspicuously displayed in the place to which it shall refer or for which it shall be issued. All licenses shall comply with the Utah Alcoholic Beverage Control Act and the regulations of the Alcoholic Beverage Control Commission, and every license shall recite that it is granted subject to revocation as hereinafter provided. (Prior code § 5-3-2)

5.12.030 Application for license.

A. All applications for licenses authorized by this chapter shall be verified and filed with the city council and shall state the applicant's name in full, that he or she has complied with the requirements and possesses the qualifications specified in the Alcoholic Beverage Control Act, and if the applicant is a co-partnership, the names and addresses of all partners and if a corporation, the names and addresses of all officers and directors, and must be subscribed by the applicant, who must state under oath that the facts stated therein are true. Applicants must furnish such other information as and when the city council shall require.

B. The application for such license shall be referred to the chief of police for an investigation and report. The chief of police shall cause an investigation to be made to determine the criminal history, if any, of the applicant(s) and the location of the proposed licensed premises. The chief of police shall make a report to the city council within ten (10) days after receiving an application or at the next regularly scheduled meeting of the council, whichever is later. Upon receiving the report, the city council shall act upon the application as it shall deem fair, just and proper in regard to granting or denying the same. (Prior code § 5-3-3)

5.12.040 License privileges.

Retail licenses issued hereunder shall be of the following kinds:

A. Class A retail license which shall entitle the licensee to sell beer on the licensed premises in original containers for consumption off the premises;

B. Class B retail license which shall entitle the licensee to sell beer on the licensed premises in original containers for consumption on or off the premises; or

C. Class C retail license which shall entitle the licensee to sell beer on draft for consumption on the licensed premises.

D. Class D retail license, which shall entitle the licensee to sell beer on draft for consumption on the licensed premises; and to sell take-out draft beer in a re-sealable container of a volume permitted by state law for consumption off the premises. The container must be sealed at the time of purchase with a label that indicates the name of the licensee and the date and time of the purchase. (Ord. 327-11)

All licenses provided for herein shall expire on the thirty-first day of December unless canceled sooner. (Ord. 264-00 (part); prior code § 5-3-5)

5.12.050 License fees.

Each application for a beer license shall be accompanied by a license fee in an amount set periodically by resolution of the city council. These fees shall be deposited in the city treasury if the license is granted, and returned to the applicant if denied. (Prior code § 5-3-6)

5.12.060 Beer must be purchased from licensed brewer or wholesaler.

It is unlawful for any licensee to purchase or acquire, or to have or possess for the purpose of sale or distribution, any beer except that which he or she shall have lawfully purchased from a brewer or wholesaler licensed under the Utah Alcoholic Beverage Control Act. (Prior code § 5-3-7)

5.12.070 Wholesalers must be licensed.

It is unlawful for any person to engage in the business of selling beer at wholesale within the corporate limits of the city without first obtaining a license therefore from the Utah Alcoholic Beverage Control Commission and paying such fees as are required therefore. (Prior code § 5-3-8)

5.12.080 Permit from health department.

No license shall be issued until the applicant therefore shall have first procured from the Davis County health department a permit therefore, which permit shall show that the premises to be licensed are in a sanitary condition and that the equipment used in the storage or distribution or sale of such beer complies with all health regulations of the county health department and of the state of Utah. (Prior code § 5-3-9)

5.12.090 License not transferable.

No license issued under the provisions of this chapter shall be used at any time by any person other than the one to whom it was issued. (Prior code § 5-3-10)

5.12.100 Restrictions.

No license shall be granted to sell beer in any theater, or within three hundred (300) feet of any church or school.

It is unlawful, a nuisance, and a basis for the revocation of a beer license, to cause or permit any of the following:

A. To sell or otherwise supply beer to any person under the age of twenty-one (21) years, or to any person who is intoxicated or under the influence of an intoxicating beverage, or to sell beer for consumption on the premises unless so licensed, or to permit the drinking of liquor on such premises;

B. To sell or otherwise furnish or dispose of beer, or to allow it to be drunk or consumed on the premises or to allow beer to remain on that portion of the premises open to customers, patrons, or members of the public after one a.m. and before ten a.m.;

C. To allow dancing to any music, other than recorded music, between the hours of six a.m. Monday and twelve midnight Saturday on any premises where beer is sold, or to allow any dancing between the hours of 12:01 a.m. Sunday and six a.m. Monday on the premises where beer is sold, and it shall also be unlawful for any person to sell or furnish beer, or to purchase or consume beer on premises where dancing is permitted in violation of this chapter;

D. To not keep the licensed premises brightly illuminated at all times while it is occupied for business, or for any booth, blind or stall to be maintained unless all tables, chairs and occupants are kept open to full view from the main floor at the entrance of such licensed premises;

E. To violate any of the terms of the license issued, or to sell bottled or draft beer for consumption on the premises, or to permit any beer to be consumed on the premises unless the license so permits;

F. To be nude in a premises licensed under this chapter any person whether a patron, employee or performer;

G. To cause or do any act in or about a licensed premises contrary to the provisions of the Alcoholic Beverage Control Act;

H. To cause or do any act in or about a licensed premises contrary to federal, state or local criminal laws; or

I. To permit a minor under the age of twenty-one (21) years to enter a licensed premises or to purchase, possess or consume an alcoholic beverage therein. (Ord. 264-00 (part); prior code § 5-3-11)

5.12.110 Inspection.

All licensed premises shall be subject to inspection by any officer, agent, or peace officer of the city, or the Utah State Department of Alcoholic Beverage Control, or the state or county health departments, and every licensee shall, at the request of said health department(s), furnish samples of beer offered for sale. (Prior code § 5-3-12)

5.12.120 Denial or revocation of beer license.

A. A beer license may be denied or revoked for any good cause reasonably related to the health, safety or general welfare of the residents of West Bountiful City, including the violation of any federal, state or local law (including the provisions of this chapter).

B. Unless the mayor shall otherwise direct, the decision to deny or revoke a business license shall be made by the city recorder. Any such decision shall be in writing, including a simple statement of the reasons therefor. The denial or revocation shall take effect after the written decision has been filed in the records of the city recorder and a copy thereof has been mailed to the applicant or license holder at the address listed in that person's application. If the applicant or license holder was present when the decision to revoke or deny was made, or is otherwise personally aware of the decision, the denial or revocation shall be effective when the written decision is filed in the records of the city recorder.

C. Any person aggrieved by a decision to deny or revoke a beer license may appeal that decision by filing a written notice of appeal with the city recorder within fifteen (15) days of the effective date of the denial or revocation.

D. An appeal of a decision to deny or revoke a beer license shall be conducted as provided in Section 2.60.010 of these ordinances. (Prior code § 5-2-13)

Chapter 5.16 HORSE-DRAWN CARRIAGES

Sections:

5.16.010 Definitions.

The following words and phrases, when used in this chapter, shall have the following meanings:

"**Applicant**" means the person signing an application either for a carriage business license or for a driver's license hereunder.

"**Carriage**" or "**horse-drawn carriage**" means any device designed to be drawn by horses in, upon, or by which any person is or may be transported or drawn upon a public way.

"**Carriage business**" means any person offering to transport another person for a valuable consideration and by means of a horse-drawn carriage.

"**Carriage day**" means the operating of a horse-drawn carriage for business on the streets of the city for at least one hour during any calendar day.

"**Carriage stand**" means that portion of a curb lane designated by the city for loading and unloading of passengers of horse-drawn carriages.

"**Driver**" means any person operating or in actual physical control of a horse-drawn carriage, or any person sitting in the driver's seat of such carriage with the intention of causing it to be moved by a horse.

"**Holder**" means any person holding a valid and unexpired certificate of convenience and necessity issued by the city.

"**Horse**" means an animal purely of the genus equus caballus, specifically excluding crosses with other genera.

"**Stable**" means any place or facility where one or more horses are housed or maintained.

"**Veterinarian**" means any person legally licensed to practice veterinary medicine.

"**Work**," with reference to a horse, means that the horse is out of the stable and presented as being available for pulling carriages; in harness; or pulling a carriage. (Prior code § 5-5-1)

5.16.020 Certificate of public convenience and necessity.

A. **Certificate Required.** No person shall operate or permit a horse-drawn carriage owned or controlled by such person to be operated, as a carriage for hire, upon the streets of the city, without first having obtained a certificate of public convenience and necessity from the city in accordance with this chapter.

B. **Certificate--Application Information.** An application for the certificate of public convenience and necessity, verified under oath, shall show the experience of applicant in the transportation of passengers by horse-drawn carriages and shall show the specific route or routes within the city along which applicant proposes to operate one or more horse-drawn carriages.

C. **Annual Operation.** No certificates shall be issued or continued in operation unless the holder therein has paid an annual business regulatory fee according to established resolution governing business licenses. An additional fee per horse-drawn carriage authorized under a certificate of public convenience and necessity shall also be payable. This fee shall also be periodically set by resolution of the city council.

D. Holder shall operate its business in accordance with law and will save the city harmless from any and all liability for damages or injury arising by reason of the conduct or operation of its business.

Holder shall also, prior to the issuance of a certificate of public convenience and necessity and continuously during the period of holder's operation, secure and keep in effect liability insurance with limits of not less than one hundred thousand dollars ($100,000.00)/five hundred thousand dollars ($500,000.00) bodily injury and fifty thousand dollars ($50,000.00) property damage to protect the city and customers using holder's services from any claims for damages to persons or property. (Prior code § 5-5-2)

5.16.030 Types of carriages allowed.

A. All carriages shall be of types customarily known in the carriage industry as "vis-à-vis," "landau," "brougham," "victoria" and/or "rockaway," and shall meet all of the equipment, registration, and other requirements of this chapter before being used to transport customers. All horse-drawn carriages shall operate only within specified routes and/or quadrants as set forth herein.

B. Each holder may operate one training cart, i.e., a two-wheel, horse-drawn vehicle with extra long shafts, designed for training purposes. Training carts shall not be used for the transport of customers for hire and shall meet all of the equipment, registration and other requirements of this chapter and shall operate only within routes specifically authorized by the city as set forth herein. (Prior code § 5-5-3)

5.16.040 Licensing for all certificated vehicles.

A. A holder is required to have the total number of carriages authorized under such holder's certificate of convenience and necessity, and to obtain the license required for each and every carriage.

B. In the event the holder does not license the total number of carriages authorized by the certificate before February 15th of any year, such holder shall forfeit the right to commercially use any carriage not so licensed, unless such carriage is licensed within five days after written notice by the city, and that authority shall automatically revert to the city, and the certificate shall be modified to reflect the total number of vehicles actually licensed before February 15th of any year. Such forfeited right to operate any carriage may be reissued to any person; provided, however, it shall not be reissued except upon application as herein set forth and by a showing of public convenience and necessity as required by Section 5.16.020.

C. Nothing contained herein shall prohibit a holder from having carriages in excess of the number authorized under such holder's certificate for the purpose of replacement or substitution of an authorized carriage under repair, maintenance or breakdown; provided, however, any such carriage shall not be used as a carriage other than as a replacement or substitution as herein provided. (Prior code § 5-5-4)

5.16.050 Compliance responsibility.

The holder shall not be relieved of any responsibility for compliance with the provisions of this chapter, whether the holder pays salary, wages, or any other form of compensation to drivers. (Prior code § 5-5-5)

5.16.060 Revocation or suspension.

If any person to whom a license has been issued pursuant to this chapter commits a violation of this chapter, such license may be revoked or suspended according to the procedure provided for revocation or suspension of a business license issued by the city. (Prior code § 5-5-6)

5.16.070 Driver licensing.

A. It is unlawful for any person to operate or for a holder to permit any person to operate a carriage for hire or a training cart upon the streets of the city without such operator having first obtained and having then in force a current chauffeur's license valid in the state of Utah.

B. **License Display.** Every driver operating a carriage under this chapter shall keep his or her operator's license on his or her person while such driver is operating a carriage, and shall exhibit the license upon demand of any police officer, animal control officer, license inspector, or any authorized agent of the state of Utah Driver's License Division. (Prior code § 5-5-7)

5.16.080 Carriage equipment and maintenance.

A. **Carriage Inspection Prior to Licensing.** Prior to the use and operation of any carriage under the provisions of this chapter, the carriage shall be thoroughly examined and inspected by the police chief or his or her agent and found to comply with the specifications of subsection C of this section, and a certificate showing the same shall be furnished to the city.

B. **Periodic Inspections.** Every carriage operating under this chapter shall be inspected as provided in this section, or by the city police department at least once each year in order to make certain each carriage is being maintained in a safe and efficient operating condition in accordance with the following inspection requirements:

1. Each carriage shall be equipped with rear view mirrors, two electrified white lights visible for one thousand (1,000) feet to the front of the carriage, and two electrified red lights visible for one thousand (1,000) feet to the rear of the carriage;

2. Each carriage shall be equipped with hydraulic or factory equipped mechanical brakes appropriate for the design of the particular carriage;

3. Each carriage shall be equipped with a slow moving vehicle emblem (red triangle) attached to the rear of the carriage in conformity with the slow vehicle emblem requirements of the state of Utah;

4. Each carriage shall permanently and prominently display the name and telephone number of the carriage business operating it on the rear portion of such carriage;

5. Each carriage shall be equipped with a device to catch horse manure falling to the pavement; and

6. Each carriage shall be maintained in a clean and sanitary condition. The carriage owner shall be required to pay an inspection fee each time the vehicle is inspected. The amount of this fee shall be set periodically by resolution of the city council.

C. This section shall be fully applicable to training carts, with the exception of subsection (B) (2) of this section regarding brakes. In addition, all training carts shall be clearly marked, on the rear portion of such cart, with the words: "CAUTION: HORSE IN TRAINING." (Prior code § 5-5-8)

5.16.090 Conduct of drivers and operation of carriages.

A. **Traffic Laws.** A driver operating a horse-drawn carriage shall be subject to all laws of the city pertaining to the driver of any vehicle.

B. **Lights.** The driver of each carriage in operation from one-half hour after sunset until one-half hour before sunrise, and in conditions of poor visibility, shall turn on the front and tail lights of the carriage and take any action necessary to make them operational. Electrified directional signs are required at all times.

C. **Speed.** The driver shall not permit the speed at which any horse-drawn carriage is driven to exceed a slow trot.

D. **Presence and Control.** No driver shall leave the carriage unattended in a public place.

E. **Number of Passengers.** No driver shall permit more than six adult passengers to ride in the carriage at one time, plus no more than two children under three years of age, if seated on the laps of adult passengers. At no time shall a carriage transport more passengers than it was designed to carry. No more than two passengers shall be permitted to be carried in a training cart, neither of which shall be a customer for hire.

F**. Passengers Restricted to Passenger Area.** No driver shall permit a passenger to ride on any part of the carriage while in motion, unless the passenger is seated inside the carriage.

G. **Appearance.** Drivers shall be neatly dressed and courteous in manner.

H. **Hours.** Neither a licensee nor any driver shall operate or allow to be operated its carriages on the streets of the city during the hours of seven a.m. to nine a.m. and four p.m. to six p.m. except on Saturdays, Sundays and holidays.

I. **Routes.** The licensees and drivers shall operate horse-drawn carriages only upon certain streets within specified routes and/or quadrants and according to restrictions authorized by the chief of police of the city. In determining these routes, restrictions and/or quadrants, the chief of police shall seek to ensure safe and efficient movement of traffic within the city, and shall take into consideration the location of the streets therein, the expected traffic flow upon such streets, the history of traffic accidents upon such streets, the width of such streets, and any natural or manmade physical features of such streets which may be pertinent to the safe and efficient movement of traffic thereon.

1. As of the effective date of the ordinance codified in this chapter, there shall be established a quadrant for the operation of horse-drawn carriages which shall be bounded by the following streets: 400 North to 2200 North within east and west city limits, subject to route restrictions as set forth in the certificate of convenience and necessity. The maximum number of carriages which shall be allowed to operate within this quadrant shall be eight, subject to reallocation by the chief of police as provided herein above.

2. Licensees are barred from using streets which:

a. Have a speed limit exceeding thirty-five (35) m.p.h. unless prior approval is obtained;

b. Do not have stop signs or semaphores at major intersections; or

c. Involve major arterials during the hours of seven a.m. to six p.m.

3. The authorized routes and termini shall be subject to amendment periodically by the city chief of police in order to ensure safe and efficient movement of traffic within the city, according to the guidelines set forth in this section. Advance charter tours may deviate from the route provided the driver stays on streets already approved for routes. A driver must receive prior permission of the chief of police to deviate from streets which have not been approved for routes or destinations which require use or crossing of streets designated as arterial or collector streets on the city's major street plan and official map.

J**. Termini.** Approved on-street route termini include those areas designated by the chief of police. Each holder shall obtain permission from the property owner of all off-street staging areas before using such areas. Upon request by the city police chief, a holder shall verify such permission to use such off-street staging area by submitting to the chief of police evidence of each written permission from the property owner.

Drivers shall not stop at designated bus stops, bus lanes, or any other restricted parking areas.

K**. Rates.** All drivers must make available to any person, upon request, the rates for all tours and trips offered by the service. Once a vehicle has been hired for a designated route or termini, the driver may not accept additional passengers without the original contracting passenger's consent. (Ord. 264-00 (part); prior code § 5-5-9)

5.16.100 Suitability of horses.

A. **Businesses Governed.** In addition to the requirements of other applicable ordinances, all holders of a certificate of public convenience and necessity issued by the city for the transportation of passengers for hire by horse-drawn carriages shall be governed by the provisions of this chapter.

B. **Identification Number.** Each horse used to pull a carriage in the city shall be identified by a brand or mark in accordance with the Utah Livestock Brand and Anti-Theft Act which brand or mark uniquely identifies the horse thus marked. The identification brand or mark and description of each of the horses, including age, breed, sex, color and other identifying markings, shall be filed by the carriage horse business with the city recorder.

C. **Examination Required.** Every horse shall be examined prior to use in a horsedrawn carriage business, and every six months thereafter, by a veterinarian, at no expense to the city. The horse shall be examined and treated for internal parasites; problems with its teeth, legs, hoofs and shoes, or cardiovascular system; drug abuse; any injury, disease or deficiency observed by the veterinarian at the time of examination or previously; and the general physical condition and ability of the horse to perform the work required of it.

D. **Certificate Required**. No person shall cause or attempt to cause a horse to pull a carriage unless the horse has been certified pursuant to this section. The certification of the horse may be made subject to a condition, or otherwise limited by the veterinarian. The certificate shall be kept and be available for inspection by the city at the stable where the certified horse is kept, and a copy of the certificate shall be mailed to the city within five days from its date.

E. **Certificate by Veterinarian--Term.** After performing the physical examination required by subsection C of this section, the examining veterinarian may sign a certificate attesting that the horse is in good health. The certificate shall specifically identify each horse by its breed, sex, color and identifying markings and shall state, in the opinion of the veterinarian, the maximum load which each horse can reasonably be expected to draw safely without causing injury to the horse.

The certificate, if issued, shall be valid for a period of not more than six months from the date of signing.

F**. Criteria for Determining Health.** For purposes of this chapter, a horse shall be deemed to be in good health only if the horse:

1**. Strength.** Has, in the opinion of the veterinarian, flesh, muscle tone, and weight sufficient to perform the work for which the horse is used, including the pulling of carriages;

2. **Immunization Against Anemia.** Has been immunized against equine infectious anemia, and such vaccination will be effective at all times during the next six months;

3. **Coggins Test.** The horse has been given a Coggins test with negative results on at least one certificate per year; and

4. **In General.** If, in the opinion of the veterinarian, in general good health and in all aspects physically fit to perform the work for which the horse is used, including the pulling of carriages.

G. **Cancellation and Suspension of Certificate.** A veterinarian shall cancel a certificate if the veterinarian learns of a condition which is reasonably expected to make the horse unfit for its work for a period of two weeks or more. If the horse appears to the veterinarian to be suffering from an injury or sickness from which it is expected to recover in less than two weeks, the veterinarian shall suspend the certificate for such horse for the time that the veterinarian expects will be necessary for the horse to recover. Upon written request of a holder for a hearing on such cancellation or suspension of a veterinarian's certificate, a hearing shall be held by the city within three working days of receipt of such request to determine whether the cancellation or suspension shall remain in effect. A canceled certificate shall be destroyed by the veterinarian or shall be clearly marked as canceled or invalid. Suspension of a certificate shall be clearly marked by the veterinarian in nonerasable ink on the original of the certificate.

H**. Police or Animal Control Orders.** A city police officer, health department officer, or animal control officer may order that a horse not be used to pull a carriage in the city and that the horse be returned to its stable, if the officer has cause to believe that the horse is suffering from any injury, ailment or other condition significantly affecting its ability to pull a carriage safely.

The order shall be effective only for so long as the officer specifies or until a hearing can be held regarding disqualification, or for three working days, whichever is shorter.

I. **Disqualification.** The mayor and city council members may, upon prior notice and hearing, disqualify a specific horse from use in pulling a carriage in the city if they find that the horse presents a hazard to public or passenger safety greater than the hazard posed by a normal horse, or that the horse is in any way unfit for the work of pulling carriages in the city. Before a horse may be disqualified, a hearing shall be held before the mayor and city council, at which the carriage business and the owner of the horse may appear and express themselves. At least three working days notice shall be given of the hearing to the carriage business using the horse. A disqualified horse shall not be used to pull a carriage within the city.

J. **Accidents.** In addition to any other requirements of law regarding reporting of vehicle accidents, the operator of a horsedrawn carriage shall report to the city police department any accident involving such carriage, and no such horse or carriage shall again be operated until such have been inspected by a police officer and a determination has been made by such officer that no removal order is necessary as provided by subsection K of this section.

K. **Examination by the City.** The city and its officials may, at any reasonable time, examine any horse owned by a carriage business or used by a carriage business to pull a carriage, or may have such a horse examined by a veterinarian. The cost of such examination shall initially be borne by the city. Such orders shall be in writing and may be given to the driver of a carriage to which the horse is hitched, or to a carriage business owning or having possession of the horse. If the examination determines that the horse is suffering from any injury, ailment or other condition significantly affecting its ability to pull a carriage in the city, the cost for such examination shall be reimbursed to the city by the certificate holder owning or operating such horse. (Prior code § 5-5-10)

5.16.110 Care of horses.

A. **Physical Condition for Work.** No person shall cause a horse to draw or to be harnessed to a carriage if:

1. **Certifiable.** The person attending to the horse knows, or reasonably should know that the horse, if then examined by a veterinarian, would probably not then be eligible for certification, or would be subject to cancellation or revocation of certification;

2. **Acute Ailment**. The horse has an open sore or wound, or is lame or appears to have any other injury, sickness or ailment, unless the person attending to the horse has in his or her possession a written statement signed by a veterinarian and stating that the horse is fit for pulling a carriage notwithstanding the injury, sickness or ailment;

3. **Hoofs**. The hoofs of the horse are not properly shod and trimmed, using rubber coated heel pads or open steel barium tip shoes to aid in the prevention of slipping.

Horses shall be shod and trimmed by an experienced, competent farrier at least every four to six weeks, or more frequently if necessary; or

4. **Coat.** The horse is not well groomed and/or has fungus, dandruff, or a poor or dirty coat.

B. **Stables and Stalls.** All stables used by a carriage business and the keeping of horses therein shall be subject to the provisions of all applicable city, county or state laws and ordinances.

C. **Cruelty and Neglect Prohibited.** No horse owned by or within the control of a carriage business shall be treated cruelly, harassed or neglected. A carriage business and its owner and managers are all individually responsible to take any action reasonably necessary to assure the humane care and treatment of the horses under their control. (Prior code § 5-5-11)

5.16.120 Violation--Penalty.

Any violation of any provision of this chapter shall be a Class B misdemeanor. (Prior code § 5-5-12)

Chapter 5.20 SEXUALLY-ORIENTED BUSINESSES

Sections:

5.20.010 Title for citation.

The provisions codified in this chapter shall be known and may be referred to as the "sexually-oriented business and employee licensing ordinance." (Ord. 246-97 (part): prior code § 5-8-1)

5.20.020 Purpose of provisions.

It is the purpose and object of this chapter that the city establish reasonable and uniform regulations governing the time, place and manner of operation of sexually oriented businesses and their employees in the city. This chapter shall be construed to protect the governmental interests recognized by this chapter in a manner consistent with constitutional protections provided by the United States and Utah Constitutions. (Ord. 246-97 (part): prior code § 5-8-2)

5.20.030 Application of provisions.

This chapter imposes regulatory standards and license requirements on certain business activities which are characterized as sexually-oriented businesses, and certain employees of those businesses characterized as sexually-oriented business employees.

Except where the context or specific provisions require, this chapter does not supersede or nullify any other related ordinances. (Ord. 246-97 (part): prior code § 5-8-3)

5.20.040 Definitions.

For the purpose of this chapter, the following words shall have the following meanings:

"**Adult bookstore**" or "**adult video store**" means a commercial establishment:

1. Which excludes minors from more than fifteen (15) percent of the retail floor or shelf space of the premises; or

2. Which, as one of its principal purposes, offers for sale or rental, for any form of consideration, any one or more of the following: books, magazines, periodicals or other printed matter; or photographs, films, motion pictures, video cassettes, or video reproductions, slides, or other visual representations, the central theme of which depicts or describes specified sexual activities or specified anatomical areas; or instruments, devices or paraphernalia which are designated for use in connection with specified sexual activities, except for legitimate medically recognized contraceptives.

"**Adult business**" means an adult motion picture theater, adult bookstore, or adult video store.

"**Adult motion picture theater**" means a commercial establishment which:

1. Excludes minors from the showing of two consecutive exhibitions (repeated showings of any single presentation shall not be considered a consecutive exhibition);

or

2. As its principal business, shows, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions which are primarily characterized by the depiction or description of specified sexual activities or specified anatomical areas.

"**Adult theater**" means a theater, concert hall, auditorium, or similar commercial establishment which:

1. Holds itself out as such a business; or

2. Excludes minors from the showing of two consecutive exhibitions (repeated performance of the same presentation shall not be considered a consecutive exhibition); or

3. As its principal business, features persons who appear in live performances in a state of semi-nudity or which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

"**Employ**" means hiring an individual to work for pecuniary or any other form of compensation, whether such person is hired on the payroll of the employer, as an independent contractor, as an agent, or in any other form of employment relationship.

"**Escort**" means any person who, for pecuniary compensation, dates, socializes, visits, consorts with, or accompanies or offers to date, consort, socialize, visit or accompany another or others to or about social affairs, entertainment or places of amusement, or within any place of public or private resort or any business or commercial establishment or any private quarters.

"**Escort**" shall not be construed to include persons who provide business or personal services, such as licensed private nurses, aides for the elderly, or handicapped, social secretaries or similar service personnel whose relationship with their patron is characterized by a bona fide contractual relationship having a duration of more than twelve (12) hours and who provide a service not principally characterized as dating or socializing. "Escort" shall also not be construed to include persons providing services such as singing telegrams, birthday greetings, or similar activities characterized by appearances in a public place, contracted for by a party other than the person for whom the service is being performed and of a duration not longer than one hour.

"**Escort service**" means an individual or entity who, for pecuniary compensation, furnishes or offers to furnish escorts, or provides or offers to introduce patrons to escorts.

"**Escort service runner**" means any third person, not an escort, who, for pecuniary compensation, acts in the capacity of an agent or broker for an escort service, escort or patron by contacting or meeting with escort services, escorts or patrons at any location within the city, whether or not such third person is employed by such escort service, escort, patron or by another business, or is an independent contractor or self-employed.

"**Nudity**" means a state of dress in which the areola of the female breast or male or female genitals, pubic region, or anus are covered by less than the covering required in the definition of semi-nude.

"**Operator**" means the manager or other natural person principally in charge of a sexually-oriented business.

"**Outcall services**" means services of a type performed by a sexually-oriented business employee outside of the premises of the licensed sexually-oriented business, including but not limited to escorts, models, dancers and other similar employees.

"**Patron**" means any person who contracts with or employs any escort services or escort or the customer of any business licensed pursuant to this chapter.

"**Pecuniary compensation**" means any commission, fee, salary, tip, gratuity, hire, profit, reward or any other form of consideration.

"**Person**" means any person, unincorporated association, corporation, partnership, or other legal entity.

"**Semi-nude**" means a state of dress in which opaque clothing covers no more than the areola of the female breast; and the male or female genitals, pubic region, and anus shall be fully covered by an opaque covering no narrower than four inches wide in the front and five inches wide in the back, which shall not taper to less than one inch wide at the narrowest point.

"**Semi-nude dancing agency**" means any person, agency, firm, corporation, partnership or any other entity or individual which furnishes, books or otherwise engages or offers to furnish, book or otherwise engage the service of a professional dancer licensed pursuant to this chapter for performance or appearance at a business licensed for adult theaters.

"**Semi-nude entertainment business**" means a business, including adult theater, where employees perform or appear in the presence of patrons of the business in a state of semi-nudity. A business shall also be presumed to be a semi-nude entertainment business if the business holds itself out as such a business.

"**Sexually-oriented business**" means semi-nude entertainment businesses, sexually-oriented outcall services, adult businesses, and semi-nude dancing agencies, as defined by this chapter.

"**Sexually-oriented business employees**" means those employees who work on the premises of a sexually-oriented business in activities related to the sexually-oriented portion of the business. This includes all managing employees, dancers, escorts, models and other similar employees, whether or not hired as employees, agents or as independent contractors. Employees shall not include individuals whose work is unrelated to the sexually-oriented portion of the business, such as janitors, bookkeepers and similar employees. Sexually-oriented business employees shall not include cooks, serving persons, and similar employees, except where they may be managers or supervisors of the business. All persons making outcall meetings under this chapter, including escorts, models, guards, escort runners, drivers, chauffeurs, and other similar employees, shall be considered sexually-oriented business employees.

"**Specified anatomical areas**" means the human male or female pubic area or anus with less than a full opaque covering, or the human female breast below a point immediately above the top of the areola, with less than full opaque covering.

"**Specified sexual activities**" means:

1. Acts of:

    a. Masturbation,

    b. Human sexual intercourse,

c. Sexual copulation between a person and a beast,

d. Fellatio,

e. Cunnilingus,

f. Bestiality,

g. Pederasty,

h. Buggery, or

i. Any anal copulation between a human male and another human male, human female, or beast;

2. Manipulating, caressing or fondling by any person of:

a. The genitals of a human,

b. The pubic area of a human,

c. The breast or breasts of a human female;

3. Flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of the one so clothed. (Ord. 246-97 (part): prior code § 5-8-4)

5.20.050 Obscenity and lewdness--Statutory provisions.

A. Notwithstanding anything contained in this chapter, nothing in this chapter shall be deemed to permit or allow the showing or display of any matter which is contrary to applicable federal or state statutes prohibiting obscenity.

B. Notwithstanding anything contained in this chapter, nothing in this chapter shall be deemed to permit or allow conduct or the showing or display of any matter which is contrary to the provisions of Section 9.04.030. Provided, however, that for the purpose of sexually-oriented businesses the definition of "private parts" shall be construed to mean "nudity" as defined in this chapter. (Ord. 246-97 (part): prior code § 5-8-5)

5.20.060 Location and zoning restrictions.

It is unlawful for any sexually-oriented business to do business at any location within the city not zoned for such business.

Sexually-oriented businesses licensed as adult businesses or semi-nude entertainment businesses pursuant to this chapter shall only be allowed in areas zoned for their use pursuant to Title 17 of this code. (Ord. 246-97 (part): prior code § 5-8-6)

5.20.070 Business license required.

It is unlawful for any person to operate a sexually-oriented business, as specified herein, without first obtaining a general business license and a sexually-oriented business license. The sexually-oriented business license shall specify the type of business for which it is obtained. (Ord. 246-97 (part): prior code § 5-8-7)

5.20.080 Exemptions from license requirements.

The provisions of this chapter shall not apply to any sex therapist or similar individual licensed by the state to provide bona fide sexual therapy or counseling, licensed medical practitioner, licensed nurse, psychiatrist, psychologist, nor shall it apply to any educator licensed by the state for activities in the classroom. (Ord. 246-97 (part): prior code § 5-8-8)

5.20.090 Legitimate artistic modeling.

A. The city does not intend to unreasonably or improperly prohibit legitimate modeling which may occur in a state of nudity for purposes protected by the First Amendment or similar state protections. The city does intend to prohibit prostitution and related offenses occurring under the guise of nude modeling.

Notwithstanding the provisions of Section 5.20.220(K), a licensed outcall employee may appear in a state of nudity before a customer or patron, providing that a written contract for such appearance was entered into between the customer or patron and the employee and signed at least twenty-four (24) hours before the nude appearance. All of the other applicable provisions of this chapter shall still apply to such nude appearance.

B. In the event of a contract for nude modeling or appearance signed more than forty-eight (48) hours in advance of the modeling or appearance, the individual to appear nude shall not be required to obtain a license pursuant to this chapter. During such unlicensed nude appearance, it is unlawful to:

1. Appear nude or semi-nude in the presence of persons under the age of eighteen (18);

2. Allow, offer or agree to any touching of the contracting party or other person by the individual appearing nude;

3. Allow, offer or agree to commit prostitution, solicitation of prostitution, solicitation of a minor, or committing activities harmful to a minor;

4. Allow, offer, commit or agree to any sex act as validly defined by city ordinances or state statute;

5. Allow, offer, agree or permit the contracting party or other person to masturbate in the presence of the individual contracted to appear nude;

6. Allow, offer or agree for the individual appearing nude to be within five feet of any other person while performing or while nude or semi-nude. (Ord. 246-97(part): prior code § 5-8-9)

5.20.100 Business categories--Number of licenses.

A. It is unlawful for any business premises to operate or be licensed for more than one category of sexually-oriented business, except that a business may have a license for both outcall services and a semi-nude dancing agency on the same premises.

B. The categories of sexually-oriented businesses are:

1. Outcall services;

2. Adult businesses;

3. Semi-nude entertainment businesses;

4. Semi-nude dancing agency. (Ord. 246-97 (part): prior code § 5-8-10)

5.20.110 Employee licenses.

It is unlawful for any sexually-oriented business to employ or for any individual to be employed by a sexually-oriented business in the capacity of a sexually-oriented business employee, unless that employee first obtains a sexually-oriented business employee license. (Ord. 246-97 (part): prior code § 5-8-11)

5.20.120 License--Application--Disclosures required.

Before any applicant may be licensed to operate a sexually-oriented business or as a sexually-oriented business employee pursuant to this chapter, the applicant shall submit, on a form to be supplied by the city license authority, the following:

A. The correct legal name of each applicant, corporation, partnership, limited partnership, or entity doing business under an assumed name;

B. If the applicant is a corporation, partnership or limited partnership, or individual or entity doing business under an assumed name, the information required below for individual applicants shall be submitted for each partner and each principal of an applicant, and for each officer, director and any shareholder (corporate or personal) of more than ten (10) percent of the stock of any applicant. Any holding company, or any entity holding more than ten (10) percent of an applicant, shall be considered an applicant for purposes of disclosure under this chapter:

1. The share holder disclosure requirements above shall only be applicable for outcall service licenses;

C. All corporations, partnerships or noncorporate entities included on the application shall also identify each individual authorized by the corporation, partnership or noncorporate entity to sign the checks for such corporation, partnership, or noncorporate entity;

D. For all applicants or individuals, the application must also state:

1. Any other names or aliases used by the individual,

2. The age, date and place of birth,

3. Height,

4. Weight,

5. Color of hair,

6. Color of eyes,

7. Present business address and telephone number,

8. Present residence and telephone number,

9. Utah drivers license or identification number, and

10. Social security number;

E. Acceptable written proof that any individual is at least eighteen (18) years of age;

F. Attached to the form, as provided above, two color photographs of the applicant clearly showing the individual's face and the individual's fingerprints on a form provided by the police department. For persons not residing in the city, the photographs and fingerprints may be on a form from the law enforcement jurisdiction where the person resides. Fees for the photographs and fingerprints shall be paid by the applicant directly to the issuing agency;

G. For any individual applicant required to obtain a sexually-oriented business employee license as an escort or a semi-nude entertainer, a certificate from the Salt Lake city-county health department, stating that the individual has, within thirty (30) days immediately preceding the date of the original or renewal application, been examined and found to be free of any contagious or communicable diseases;

H. A statement of the business, occupation, or employment history of the applicant for three years immediately preceding the date of the filing of the application;

I. A statement detailing the license or permit history of the applicant for the five-year period immediately preceding the date of the filing of the application, including whether such applicant previously operating or seeking to operate, in this or any other county, city, state or territory, has ever had a license, permit or authorization to do business denied, revoked or suspended, or has had any professional or vocational license or permit denied, revoked or suspended. In the event of any such denial, revocation or suspension, state the date, the name of the issuing or denying jurisdiction, and state in full the reasons for the denial, revocation or suspension. A copy of any order of denial, revocation or suspension shall be attached to the application;

J. All criminal convictions or pleas of nolo contendere, except those which have been expunged, and the disposition of all such arrests for the applicant, individual, or other entity subject to disclosure under this chapter, for five years prior to the date of the application. This disclosure shall include identification of all ordinance violations, excepting minor traffic offenses (any traffic offense designated as a felony shall not be construed as a minor traffic offense), stating the date, place, nature of each conviction or plea of nolo contendere, and sentence of each conviction or other disposition, identifying the convicting jurisdiction and sentencing court, and providing the court identifying case numbers or docket numbers.

Application for a sexually-oriented business or employee license shall constitute a waiver of disclosure of any criminal conviction or plea of nolo contendere for the purposes of any proceeding involving the business or employee license;

K. In the event the applicant is not the owner of record of the real property upon which the business or proposed business is or is to be located, the application must be accompanied by a notarized statement from the legal or equitable owner of the possessory interest in the property specifically acknowledging the type of business for which the applicant seeks a license for the property. In addition to furnishing such notarized statement, the applicant shall furnish the name, address and phone number of the owner of record of the property, as well as the copy of the lease or rental agreement pertaining to the premises in which the service is or will be located;

L. A description of the services to be provided by the business, with sufficient detail to allow reviewing authorities to determine what business will be transacted on the premises, together with a schedule of usual fees for services to be charged by the licensee, and any rules, regulations or employment guidelines under or by which the business intends to operate. This description shall also include:

1. The hours that the business or service will be open to the public, and the methods of promoting the health and safety of the employees and patrons and preventing them from engaging in illegal activity,

2. The methods of supervision preventing the employees from engaging in acts of prostitution or other related criminal activities,

3. The methods of supervising employees and patrons to prevent employees and patrons from charging or receiving fees for services or acts prohibited by this chapter or other statutes or ordinances,

4. The methods of screening employees and customers in order to promote the health and safety of employees and customers and prevent the transmission of disease, and prevent the commission of acts of prostitution or other criminal activity.

It is unlawful to knowingly submit false or materially misleading information on or with a sexually-oriented business license application or to fail to disclose or omit information for the purpose of obtaining a sexually-oriented business or employee license. (Ord. 246-97 (part): prior code § 5-8-12)

5.20.130 License--Fees.

Each applicant for a sexually-oriented business or employee license shall be required to pay regulatory license fees as set forth in the consolidated fee schedule. An application is not complete until all appropriate fees have been paid. (Ord. 246-97 (part): prior code § 5-8-13)

5.20.140 License--Bond.

Each application for a sexually-oriented business license shall post, with the city treasurer, a cash or corporate surety bond payable to West Bountiful City in the amount of two thousand dollars ($2,000.00). Any fines assessed against the business, officers or managers for violations of city ordinances shall be taken from this bond if not paid in cash within ten (10) days after notice of the fine, unless an appeal is filed as provided by this chapter. In the even the funds are drawn against the cash or surety bond to pay such fines, the bond shall be replenished to two thousand dollars within fifteen (15) days of the date of notice of any draw against it. (Ord. 246-97 (part): prior code § 5-8-14)

5.20.150 License--Premises location and name.

A. It is unlawful to conduct business under a license issued pursuant to this chapter at any location other than the licensed premises. Any location to which telephone calls are automatically forwarded by such business shall require a separate license.

B. It is unlawful for any sexually-oriented business to do business in the city under any name other than the business name specified in the application. (Ord. 246-97 (part): prior code § 5-8-15)

5.20.160 License--Issuance conditions.

The business license administrator shall approve the issuance of a license to the applicant within thirty (30) days after receipt of a completed application, unless the official finds one or more of the following:

A. The applicant is under eighteen (18) years of age;

B. The applicant is overdue in payment to the city of taxes, fees, fines or penalties assessed against the applicant or imposed on the applicant in relation to a sexually-oriented business;

C. The applicant has falsely answered a material question or request for information as authorized by this chapter;

D. The applicant has violated a provision of this chapter or similar provisions found in statutes or ordinances from any jurisdiction within two years immediately preceding the application; a criminal conviction for a violation of a provision of this chapter or similar provisions from any jurisdiction, whether or not it is being appealed, is conclusive evidence of a violation, but a conviction is not necessary to prove a violation;

E. The premises to be used for the business have been disapproved by the Davis County health department, the fire marshal, the police department, the building officials, or the zoning officials as not being in compliance with applicable laws and ordinances of the city. If any of the foregoing reviewing agencies cannot complete their review within the thirty (30) day approval or denial period, the agency or department may obtain from the city business license administrator an extension of time of no more than fifteen (15) days for their review. The total time for the city to approve or deny a

license shall not exceed forty-five (45) days from the receipt of a completed application and payment of all fees. Businesses located outside of the corporate boundaries of the city, but requiring a license under this chapter, may be denied a license pursuant to this chapter if the business does not have a valid business license to conduct business at the business location from the appropriate jurisdiction for that location:

1. Upon receipt of an application, all departments required to review the application shall determine within seven days whether or not the application is incomplete in items needed for processing.

Incomplete applications shall immediately be returned to the applicant with a specification of the items which are incomplete,

2. The time for processing applications specified in this section shall begin to run from the receipt of a complete application,

3. In the event that a license for semi-nude entertainment, semi-nude dancing agencies, adult businesses, or semi-nude entertainment businesses has not been disapproved within thirty (30) days or the forty-five (45) days allowed after an extension, the city shall issue the license pending completion of the city's review,

4. Any license issued pursuant to subsection (E)(3) of this section may be revoked by the city, pursuant to the revocation procedures provided for herein, if the completed review determines that the license should have been denied;

F. The required license fees have not been paid;

G. All applicable sales and use taxes have not been paid;

H. An applicant for the proposed business is in violation of or not in compliance with this chapter or similar provisions found in statutes or ordinances from any jurisdiction;

I. An applicant has been convicted or pled nolo contendere to a crime:

1. Involving prostitution; exploitation of prostitution; aggravated promotion of prostitution; aggravated exploitation of prostitution; solicitation of sex acts; sex acts for hire; compelling prostitution; aiding prostitution; sale, distribution or display of material harmful to minors; sexual performance by minors; possession of child pornography; lewdness; indecent exposure; any crime involving sexual abuse or exploitation of a child; sexual assault or aggravated sexual assault; rape; forcible sodomy; forcible sexual abuse; incest; harboring a runaway child; criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses or offenses involving similar elements from any jurisdiction, regardless of the exact title of the offense; for which:

a. Less than two years have elapsed from the date of conviction, if the conviction is of a misdemeanor offense, or less than five years if the convictions are of two or more misdemeanors within the five years, or

b. Less than five years have elapsed from the date of conviction, if the offense is of a felony,

2. The fact that a conviction is being appealed shall have no effect on the disqualification pursuant to this section. (Ord. 246-97 (part): prior code § 5-8-16)

5.20.170 License--Term.

Sexually-oriented business and employee licenses issued pursuant to this chapter shall be valid from the date of issuance through January 1st of each succeeding year. The license fees required under the consolidated fee schedule shall not be prorated for any portion of a year, but shall be paid in full for whatever portion of the year the license is applied for. (Ord. 246-97 (part): prior code § 5-8-17)

5.20.180 License--Notice of change of information.

Any change in the information required to be submitted under this chapter for either a sexually-oriented business license or sexually-oriented business employee license shall be given, in writing, to the business license administrator and the police department within fourteen (14) days after such change. (Ord. 246-97 (part): prior code § 5-8-18)

5.20.190 License--Transfer limitations.

Sexually-oriented business licenses granted under this chapter shall not be transferable. It is unlawful for a license held by an individual, a corporation, partnership, or other noncorporate entity to transfer any part of said license. (Ord. 264-00 (part): Ord. 246-97 (part): prior code § 5-8-19)

5.20.200 License--Display.

It is unlawful for any sexually-oriented business location within the boundaries of the city to fail to display the license granted pursuant to this chapter in a prominent location within the business premises. It is unlawful for any individual licensed pursuant to this chapter to fail to carry, at all times while engaged in licensed activities within the corporate boundaries of the city, their employee license on their person. If the individual is nude, such license shall be visibly displayed within the same room the employee is performing.

When requested by police, city licensing or other enforcement personnel or health official, it is unlawful to fail to show the appropriate licenses while engaged in licensed activities within the corporate boundaries of the city. (Ord. 246-97 (part): prior code § 5-8-20)

5.20.210 License--Statement in advertisements.

It is unlawful for any advertisement by the sexually-oriented business or employee to fail to state that the business or employee is licensed by the city, and shall include the city license number. (Ord. 246-97 (part): prior code § 5-8-21)

5.20.220 Regulations and unlawful activities.

It is unlawful for any sexually-oriented business or sexually-oriented business employee to:

A. Allow persons under the age of eighteen (18) years on the licensed premises, except that in adult businesses which exclude minors from less than all of the business premises, minors shall not be permitted in excluded areas;

B. Allow, offer or agree to conduct any outcall business with persons under the age of eighteen (18) years;

C. To allow, offer or agree to allow any alcohol to be stored, used or consumed on or in the licensed premises;

D. Allow the outside door to the premises to be locked while any customer is in the premises;

E. Allow, offer or agree to gambling on the licensed premises;

F. Allow, offer or agree to any sexually-oriented business employee touching or being touched by any patron or customer; except that outcall employees and customers may touch, except that any touching of specified anatomical areas, whether clothed or unclothed, is prohibited;

G. Allow, offer or agree to illegal possession, use, sale or distribution of controlled substances on the licensed premises;

H. Allow sexually-oriented business employees to possess, use, sell or distribute controlled substances while engaged in the activities of the business;

I. Allow, offer or agree to commit prostitution, solicitation of prostitution, solicitation of a minor, or committing activities harmful to a minor to occur on the licensed premises or, in the event of an outcall employee or business, the outcall employee committing, offering or agreeing to commit prostitution, attempting to commit prostitution, soliciting prostitution, soliciting a minor, or committing activities harmful to a minor;

J. Allow, offer, commit or agree to any specified sexual activity as validly defined by city ordinances or state statute in the presence of any customer or patron;

K. Allow, offer or agree to any outcall employee appearing before any customer or patron in a state of nudity;

L. Allow, offer or agree to allow a patron or customer to masturbate in the presence of the sexually-oriented business employee or on the premises of a sexually-oriented business.

M. Allow, offer or agree to commit an act of lewdness as defined in this title. (Ord. 246-97 (part): prior code § 5-8-22)

5.20.230 Outcall services--Operation requirements.

It is unlawful for any business or employee providing outcall services contracted for in the city to fail to comply with the following requirements:

A. All businesses licensed to provide outcall services pursuant to this chapter shall provide to each patron a written contract in receipt of pecuniary compensation for services. The contract shall clearly state the type of services to be performed, the length of time such services shall be performed, the total amount such services shall cost the patron, and any special terms or conditions relating to the services to be performed. The contract need not include the name of the patron. The business licensee shall keep and maintain a copy of each written contract entered into pursuant to this section for a period not less than one year from the date of provision of services thereunder. The contracts shall be numbered and entered into a register listing the contract number, date, names of all employees involved in the contract, and pecuniary compensation paid.

B. All outcall businesses licensed pursuant to this chapter shall maintain an open office or telephone at which the licensee or licensee's designated agent may be personally contacted during all hours outcall employees are working. The address and phone number of the license location shall appear and be included in all patron contracts and published advertisements. For outcall businesses which premises are licensed within the corporate limits of the city, private rooms or booths where the patrons may meet with the outcall employee shall not be provided at the open office or any other location by the service, nor shall patrons meet outcall employees at the business premises.

C. Outcall services shall not advertise in such a manner that would lead a reasonably prudent person to conclude that specified sexual activities would be performed by the outcall employee.

D. All employees of outcall services who provide outcall services within the city shall be licensed in accordance with this chapter, regardless of the primary location of the business. (Ord. 246-97 (part): prior code § 5-8-23)

5.20.240 Adult business--Design of premises.

A. In addition to the general requirements of disclosure for a sexually-oriented business, any applicant for a license as an adult business shall also submit a diagram, drawn to scale, of the premises of the license. The design and construction, prior to granting a license or opening for business, shall conform to the following:

1. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms.

2. Restrooms may not contain any video reproduction equipment or any of the business merchandise. Signs shall be posted requiring only one person being allowed in the restroom per stall, and only one person in any stall at a time, and requiring that patrons shall not be allowed access to manager's station areas.

3. For businesses which exclude minors from the entire premises, all windows, doors and other apertures to the premises shall be darkened or otherwise constructed to prevent anyone outside the premises from seeing the inside of the premises. Businesses which exclude minors from less than all of the premises shall be designed and constructed so that minors may not see into the area from which they are excluded.

4. The diagram required shall not necessarily be a professional engineer's or architect's blueprint; however, the diagram must show marked internal dimensions, all overhead lighting fixtures, and ratings for illumination capacity.

B. It shall be the duty of the licensee and the licensee's employees to insure that the views from the manager's station in subsection (A)(1) of this section remain unobstructed by any doors, walls, merchandise, display racks, or any other materials at all times that any patron is present in the premises, and to insure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.

C. The premises shall at all times be equipped and operated with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one footcandle, measured at floor level. It shall be the duty of the licensee and the licensee's employees present on the premises to insure that the illumination described above is maintained at all times that any patron is present in the premises. (Ord. 246-97 (part): prior code § 5-8-24)

5.20.250 Semi-nude entertainment business--Design of premises.

A. It is unlawful for business premises licensed for semi-nude entertainment to:

1. Permit a bed, sofa, mattress or similar item in any room on the premises, except that a sofa may be placed in a reception room open to the public or in any office to which patrons are not admitted, and except that in an adult theater such items may be on the stage as part of a performance;

2. Allow any door on any room used for the business, except for the door to an office to which patrons shall not be admitted, outside doors, and restroom doors to be lockable from the inside;

3. Provide any room in which the employee or employees and the patron or patrons are alone together without a separation by a solid physical barrier at least three feet high and six inches wide. The patron or patrons shall remain on one side of the barrier and the employee or employees shall remain on the other side of the barrier.

B. Adult theaters shall also require that the performance area shall be separated from the patrons by a minimum of three feet, which separation shall be delineated by a physical barrier at least three feet high. (Ord. 246-97 (part): prior code § 5-8-25)

5.20.260 Semi-nude entertainment business--Location restriction.

It is unlawful for any business licensed for semi-nude entertainment to be located within three hundred thirty (330) feet of a business licensed for the sale or consumption of alcohol. (Ord. 246-97 (part): prior code § 5-8-26)

5.20.270 Alcohol prohibited.

A. It is unlawful for any business licensed pursuant to this chapter to allow the sale, storage, supply or consumption of alcoholic beverages on the premises.

B. It is unlawful for any person to possess or consume any alcoholic beverage on the premises of any sexually-oriented business. (Ord. 246-97 (part): prior code § 5-8-27)

5.20.280 Semi-nude dancing agencies.

A. It is unlawful for any individual or entity to furnish, book or otherwise engage the services of a professional dancer, model or performer to appear in a state of semi-nudity for pecuniary compensation in or for any semi-nude entertainment business or adult theater licensed pursuant to this chapter, unless such agency is licensed pursuant to this chapter.

B. It is unlawful for any individual or entity to furnish, book or otherwise engage or permit any person to perform as a professional dancer, model, or performer in a state of semi-nudity or nudity, either gratuitously or for compensation, in or for any business licensed pursuant to this chapter, unless such person is licensed pursuant to this chapter. (Ord. 246-97 (part): prior code § 5-8-28)

5.20.290 Performers--Prohibited activities.

It is unlawful for any professional dancer, model or performer, while performing in any business licensed pursuant to this chapter, to:

A. Touch in any manner any other person;

B. Throw any object or clothing off the stage area;

C. Accept any money, drink, or any other object directly from any person;

D. Allow another person to touch such performer or to place any money or object on the performer or within the costume or person of the performer; or

E. Place anything within the costume or adjust or move the costume while performing so as to render the performer in a state of nudity. (Ord. 246-97 (part): prior code § 5-8-29)

5.20.300 Patrons--Prohibited activities.

It is unlawful for any person or any patron of any business to touch in any manner any performer; to place any money or object on or within the costume or person of any performer; or to give or offer to give to any such performer any drinks, money or object while such performer is performing; except that money may be placed on the stage, which shall not be picked up by the performer except by hand. (Ord. 246-97 (part): prior code § 5-8-30)

5.20.310 Nudity--Defenses to prosecution.

It is a defense to prosecution or violation under this chapter that a person appearing in a state of nudity did so in a modeling class operated:

A. By a proprietary school licensed by the state, or a college, junior college, or university supported entirely or partly by taxation;

B. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation. (Ord. 246-97 (part): prior code § 5-8-31)

5.20.320 Existing businesses--Compliance time limits.

A. The provisions of this chapter shall be applicable to all persons and businesses described herein, whether the herein described activities were established before or after the effective date of the provisions codified in this chapter and regardless of whether such persons and businesses are currently licensed to do business in the city.

1. All such persons and businesses requiring outcall service licenses shall have forty-five (45) days from the effective date of the ordinance codified in this chapter, or until their current license expires, whichever is first in time, to comply with the provisions of this chapter.

2. All semi-nude dancing agency licenses shall have seventy-five (75) days from the effective date of the ordinance codified in this chapter, or until their license must be renewed, whichever is first, to comply with the provisions of this chapter.

3. All adult businesses and semi-nude entertainment businesses shall have one hundred thirty-five (135) days from the effective date of the ordinance codified in this chapter, or until their current license must be renewed, whichever is first, to comply with the provisions of this chapter.

B. For the year 1997, all businesses required by this chapter to be licensed as sexually-oriented businesses shall be credited against the fees required in the consolidated fee schedule with the regulatory license fees paid for the current 1997 license. (Ord. 246-97 (part): prior code § 5-8-32)

5.20.330 Violation--Injunction when.

An entity or individual who operates or causes a sexually-oriented business to be operated without a valid license, or who employs or is employed as an employee of a sexually-oriented business, or who operates such a business or functions as such an employee in violation of the provisions of this chapter is subject to a suit for injunction in addition to the civil and criminal violations provided herein, and any other remedy available at law or in equity. (Ord. 246-97 (part): prior code § 5-8-33)

5.20.340 Violation--License suspension or revocation.

A. The city may issue a notice suspending or revoking a sexually-oriented business or employee license granted under this chapter if a licensee or an employee of the licensee has:

1. Violated or is not in compliance with this chapter;

2. Refused to allow any inspection of the premises of the sexually-oriented business specifically authorized by this chapter or by any other statute or ordinance;

3. Failed to replenish the cost bond as provided in this chapter (such a suspension shall extend until the bond has been replenished);

4. Given materially false or misleading information in obtaining the license;

5. Knowingly operated the sexually-oriented business or worked under the employee license during the period when the business licensee or employee licensee's license was suspended;

6. A licensee has committed an offense which would be grounds for denial of a license for which the time period required has not elapsed;

7. On two or more occasions within a twelve (12) month period, a person or persons committed in or on, or solicited for on the licensed premises, or an outcall employee solicited or committed on or off the premises, an offense which would be grounds for denial of a license for which a conviction has been obtained, and the person or persons were employees, whether or not licensed, of the sexually-oriented business at the time the offenses were committed;

8. A licensee is delinquent in payment to the city for ad valorem taxes, or sales taxes related to the sexually-oriented business.

B. Suspension or revocation shall take effect within fifteen (15) days of the issuance of notice, unless an appeal is filed as provided by this chapter.

C. The fact that a conviction is being appealed shall have no effect on the revocation of the license. (Ord. 246-97 (part): prior code § 5-8-34)

5.20.350 Effect of license revocation.

When a license issued pursuant to this chapter is revoked, the revocation shall continue for one year from its effective date, and the licensee shall not be issued a sexually-oriented business or employee license for one year from the date of such revocation. (Ord. 246-97 (part): prior code § 5-8-35)

5.20.360 Appeal procedures.

The denial, suspension or revocation of any license issued pursuant to this chapter may be appealed as set forth in Section 5.04.110. (Ord. 246-97 (part): prior code § 5-8-36)

5.20.370 Violation--Penalty--Responsibility.

A. In addition to revocation or suspension of a license, as provided in this chapter, each violation of this chapter shall, upon citation by the city business license administrator, require the licensee to pay a civil penalty in the amount of five hundred dollars ($500.00). Such fines shall be deducted from the cost bond posted pursuant to this chapter, unless paid within ten (10) days of notice of the fine or the

final determination after any appeal. In addition to the civil fines provided in this chapter, the violation of any provision of this chapter shall be a Class B misdemeanor. Each day of a violation shall be considered a separate offense.

B. Every act or omission by an employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the sexually-oriented business licensee and/or operator, if such act or omission occurs either with the authorization, knowledge, or approval of the licensee and/or operator, or as a result of the licensee's and/or operator's negligent failure to supervise the conduct of the employee, and the sexually-oriented business licensee shall be punishable for such act or omission in the same manner as if the licensee committed the act or caused the omission.

C. A sexually-oriented business licensee and/or operator shall be responsible for the conduct of all employees while on the licensed premises, and any act or omission of any employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the licensee and/or operator for the purposes of determining whether the licensee's license shall be revoked, suspended or renewed. (Ord. 246-97 (part): prior code § 5-8-37)

Chapter 5.24 TELECOMMUNICATIONS RIGHTS-OF-WAY FRANCHISES

Sections:

5.24.010 Declaration of finding and intent.

A. **Findings Regarding Rights-of-Way.**The city of West Bountiful finds that the rights-of-way within the city:

1. Are critical to the travel and transport of persons and property in the business and social life of the city;

2. Are intended for public uses and must be managed and controlled consistent with that intent;

3. Can be partially occupied by the facilities of utilities and other public service entities delivering utility and public services rendered for profit, to the enhancement of the health, welfare and general economic well-being of the city and its citizens; and

4. Are a unique and physically limited resource requiring proper management to maximize the efficiency and to minimize the costs to the taxpayers of the foregoing uses and to minimize the inconvenience to and negative effects upon the public from such facilities' construction, placement, relocation and maintenance in the rights-of-way.

B. **Finding Regarding Compensation.** The city finds that the city should receive fair and reasonable compensation for use of the rights-of-way.

C. **Finding Regarding Local Concern.** The city finds that while telecommunications systems are in part an extension of interstate commerce, their operations also involve rights-of-way, municipal franchising, and vital business and community service, which are of local concern.

D. **Finding Regarding Promotion of Telecommunications Services.** The city finds that it is in the best interests of its taxpayers and citizens to promote the rapid development of telecommunications services, on a nondiscrimination basis, responsive to community and public interest, and to assure availability for municipal, educational and community services.

E. **Findings Regarding Franchise Standards.** The city finds that it is in the interests of the public to franchise and to establish standards for franchising providers in a manner that:

1. Fairly and reasonably compensates the city on a competitively neutral and nondiscriminatory basis as provided herein;

2. Encourages competition by establishing terms and conditions under which providers may use the rights-of-way to serve the public;

3. Fully protects the public interests and the city from any harm that may flow from such commercial use of rights-of-way;

4. Protects the police powers and rights-of-way management authority of the city, in a manner consistent with federal and state law;

5. Otherwise protects the public interests in the development and use of the city infrastructure;

6. Protects the public's investment in improvements in the rights-of-way; and

7. Ensures that no barriers to entry of telecommunications providers are created and that such franchising is accomplished in a manner that does not prohibit or have the effect of prohibiting telecommunication services, within the meaning of the Telecommunications Act of 1996 ("Act") [P.L. No. 104-104].

F**. Power to Manage Rights-of-Way.** The city adopts the telecommunications ordinance codified in this chapter pursuant to its power to manage the rights-of-way, pursuant to common law, the Utah Constitution and statutory authority, and receive fair and reasonable, compensation for the use of rights-of-way by providers as expressly set forth by Section 253 of the Act. (Ord. 248-97 § 1.1)

5.24.020 Scope.

This chapter shall provide the basic local scheme for providers of telecommunications services and systems that require the use of the rights-of-way, including providers of both the system and service, those providers of the system only, and those providers who do not build the system but who only provide services. This chapter shall apply to all future providers and to all providers in the city prior to the effective date of the ordinance codified in this chapter, whether operating with or without a franchise as set forth in Section 5.24.170(B). (Ord. 248-97 § 1.2)

5.24.030 Excluded activity.

A. Cable TV. This chapter shall not apply to cable television operators otherwise regulated by separate ordinance or agreement.

B. Wireless Services. This chapter shall not apply to personal wireless service facilities.

C. Provisions Applicable to Excluded Providers. Providers excused by other law that prohibits the city from requiring a franchise shall not be required to obtain a franchise, but all of the requirements imposed by this chapter through the exercise of the city's police power and not preempted by other law shall be applicable. (Ord. 248-97 § 1.3)

5.24.040 Definitions.

For purposes of this chapter, the following terms, phrases, words and their derivatives shall have the meanings set forth in this section, unless the context clearly indicates that another meaning is intended. Words used in the present tense include the future tense, words in the single number include the plural number, words in the plural number include the singular. The word "shall" and "will" are mandatory, and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

"**Application**" means the process by which a provider submits a request and indicates a desire to be granted a franchise to utilize the rights-of-way of all, or a part, of the city.

An application includes all written documentation, verbal statements and representations, in whatever form or forum, made by a provider to the city concerning:

the construction of a telecommunications system over, under, on or through the rights-of-way; the telecommunications services proposed to be provided in the city by a provider; and any other matter pertaining to a proposed system or service.

"**City**" means West Bountiful City, Utah.

"**Completion date**" means the date that a provider begins providing services to customers in the city.

"**Construction costs**" means all costs of constructing a system, including make ready costs, other than engineering fees, attorneys or accountants fees, or other consulting fees.

"**Control**" or "**controlling interest**" means actual working control in whatever manner exercised, including, without limitation, working control through owners hip, management, debt instruments or negative control, as the case may be, of the system or of a provider. A rebuttable presumption of the existence of control or a controlling interest shall arise from the beneficial ownership, directly or indirectly, by any person, or group of persons acting in concert, of more than twenty-five (25) percent of any provider (which person or group of persons is hereinafter referred to as "controlling person"). "Control" or "controlling interest" as used herein may be held simultaneously by more than one person or group of persons.

"**FCC**" means the Federal Communications Commission, or any successor thereto.

"**Franchise**" means the rights and obligation extended by the city to a provider to own, lease, construct, maintain, use or operate a system in the rights-of-way within the boundaries of the city. Any such authorization, in whatever form granted, shall not mean or include: (i) any other permit or authorization required for the privilege of transacting and carrying on a business within the city required by the ordinances and laws of the city; (ii) any other permit, agreement or authorization required in connection with operations on rights-of-way or public property including, without limitation, permits and agreements for placing devices on or in poles, conduits or other structures, whether owned by the city or a private entity, or for excavating or performing other work in or along the rights-of-way.

"**Franchise agreement**" means a contract entered into in accordance with the provisions of this chapter between the city and a franchisee that sets forth, subject to this chapter, the terms and conditions under which a franchise will be exercised.

"**Gross revenue**" includes all revenues of a provider that may be included as gross revenue within the meaning of Chapter 26, Title 11 Utah Code Annotated, 1953, as amended.

"**Infrastructure provider**" means a person providing to another, for the purpose of providing telecommunication services to customers, all or part of the necessary system which uses the rights-of-way.

"**Open video service**" means any video programming services provided to any person through the use of rights-of-way, by a provider that is certified by the FCC to operate an open video system pursuant to Sections 651, et seq., of the Telecommunications Act (to be codified at 47 U.S.C. T itle VI, Part V), regardless of the system used.

"**Open video system**" means the system of cables, wires, lines, towers, wave guides, optic fiber, microwave, laser beams, and any associated converters, equipment or facilities designed and constructed for the purpose of producing, receiving, amplifying or distributing open video services to or from subscribers or locations within the city.

"**Operator**" means any person who provides service over a telecommunications system and directly or through one or more persons owns a controlling interest in such system, or who otherwise controls or is responsible for the operation of such a system.

"**Ordinance**" or "telecommunications ordinance" means the telecommunications ordinance codified in this chapter concerning the granting of franchises in and by the city for the construction, ownership, operation, use or maintenance of a telecommunications system.

"**Person**" includes any individual, corporation, partnership, association, joint stock company, trust, or any other legal entity, but not the city.

"**Personal wireless services facilities**" has the same meaning as provided in Section 704 of the Act (47 U.S.C. 332(c)(7)(c)), which includes what is commonly known as cellular and PCS services that do not install any system or portion of a system in the rights-of-way.

"**Provider**" means an operator, infrastructure provider, resaler or system lessee.

"**PSC**" means the Public Service Commission, or any successor thereto.

"**Resaler**" refers to any person that provides local exchange service over a system for which a separate charge is made, where that person does not own or lease the underlying system used for the transmission.

"**Rights-of-way**" means the surface of and the space above and below any public street, sidewalk, alley, or other public way of any type whatsoever, now or hereafter existing as such within the city.

"**Signal**" means any transmission or reception of electronic, electrical, light or laser or radio frequency energy or optical information in either analog or digital format.

"**System lessee**" refers to any person that leases a system or a specific portion of a system to provide services.

"**Telecommunications**" means the transmission, between or among points specified by the user, of information of the user's choosing (e.g., data, video, and voice), without change in the form or content of the information sent and received.

"**Telecommunications system**" or "**system**" means all conduits, manholes, poles, antennas, transceivers, amplifiers and all other electronic devices, equipment, wire and appurtenances owned, leased or used by a provider, located in the rights-of-way and utilized in the provision of services, including fully digital or analog, voice, data and video imaging and other enhanced telecommunications services.

Telecommunications system or systems also includes an open video system.

"**Telecommunications service(s)**" or "**services**" means any telecommunications services provided by a provider within the city that the provider is authorized to provide under federal, state and local law, and any equipment and/or facilities required for and integrated with the services provided within the city, except that these terms do not include "cable service" as defined in the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992 (47 U.S.C. 521, et seq.), and the Telecommunications Act of 1996.

Telecommunications system or systems also includes an open video system.

"**Wire**" means fiber optic telecommunications cable, wire, coaxial cable, or other transmission medium that may be used in lieu thereof for similar purposes. (Ord. 248-97 § 2)

5.24.050 Franchise required.

A. **Nonexclusive Franchise.** The city is empowered and authorized to issue nonexclusive franchises governing the installation, construction and maintenance of systems in the city's rights-of-way, in accordance with the provisions of this chapter. The franchise is granted through a franchise agreement entered into between the city and provider.

B**. Every Provider Must Obtain.** Except to the extent preempted by federal or state law, as ultimately interpreted by a court of competent jurisdiction, including any appeals, every provider must obtain a franchise prior to constructing a telecommunications system or providing telecommunications services using the rights-of-way, and every provider must obtain a franchise before constructing an open video system or providing open video services via an open video system. Any open video system or service shall be subject to the customer service and consumer protection provisions applicable to the cable TV companies to the extent the city is not preempted or permitted as ultimately interpreted by a court of competent jurisdiction, including any appeals. The fact that particular telecommunications systems may be used for multiple purposes does not obviate the need to obtain a franchise for other purposes. By way of illustration and not limitation, a cable operator of a cable system must obtain a cable franchise, and, should intend to provide telecommunications services over the same system, must also obtain a telecommunications franchise.

C. **Nature of Grant.** A franchise shall not convey title, equitable or legal, in the rights-of-way. A franchise is only the right to occupy rights-of-way on a nonexclusive basis for the limited purposes and for the limited period stated in the franchise; the right may not be subdivided, assigned or subleased. A franchise does not excuse a provider from obtaining appropriate access or pole attachment agreements before collocating its system on the property of others, including the city's property. This section shall not be construed to prohibit a provider from leasing conduit to another provider, so long as the lessee has obtained a franchise.

D. **Current Providers.** Except to the extent exempted by federal or state law, any provider acting without a franchise on the effective date of the ordinance codified in this chapter shall request issuance of a franchise from the city within ninety (90) days of the effective date of said ordinance.

If such request is made, the provider may continue providing service during the course of negotiations. If a timely request is not made, or if negotiations cease and a franchise is not granted, the provider shall comply with the provisions of Section 5.24.110(D).

E. **Nature of Franchise.** The franchise granted by the city under the provisions of this chapter shall be a nonexclusive franchise providing the right and consent to install, repair, maintain, remove and replace its system on, over and under the rights-of-way in order to provide services.

F. **Regulatory Approval Needed.** Before offering or providing any services pursuant to the franchise, a provider shall obtain any and all regulatory approvals, permits, authorizations or licenses for the offering or provision of such services from the appropriate federal, state and local authorities, if required, and shall submit to the city upon the written request of the city evidence of all such approvals, permits, authorizations or licenses.

G. **Term.** No franchise issued pursuant to this chapter shall have a term of less than five years or greater than fifteen (15) years.

Each franchise shall be granted in a nondiscriminatory manner. (Ord. 248-97 § 3)

5.24.060 Compensation and other payments.

A. **Compensation.** As fair and reasonable compensation for any franchise granted pursuant to this chapter, a provider shall have the following obligations:

1. **Application Fee.** In order to offset the cost to the city to review an application for a franchise and in addition to all other fees, permits or charges, a provider shall pay to the city, at the time of application, five hundred dollars ($500.00) as a nonrefundable application fee.

2. **Franchise Fees.** The franchise fee, if any, shall be set forth in the franchise agreement. The obligation to pay a franchise fee shall commence on the completion date.

The franchise fee is offset by any business license fee or business license tax enacted by the city.

3. **Excavation Permits.** The provider shall also pay fees required for an excavation permit as provided in Chapter 15.12.

B. **Timing.** Unless otherwise agreed to in the franchise agreement, all franchise fees shall be paid on a monthly basis within forty-five (45) days of the close of each calendar month.

C. **Fee Statement and Certification.** Unless a franchise agreement provides otherwise, each fee payment shall be accompanied by a statement showing the manner in which the fee was calculated and shall be certified as to its accuracy.

D**. Future Costs.** A provider shall pay to the city or to third parties, at the direction of the city, an amount equal to the reasonable costs and reasonable expenses that the city incurs for the services of third parties (including but not limited to attorneys and other consultants) in connection with any renewal or provider-initiated renegotiation, or amendment of this chapter or a franchise; provided, however, that the parties shall agree upon a reasonable financial cap at the outset of negotiations. In the event the parties are unable to agree, either party may submit the issue to binding arbitration in accordance with the rules and procedures of the American Arbitration Association.

E. **Taxes and Assessments.** To the extent taxes or other assessments are imposed by taxing authorities, other than the city on the use of the city property as a result of a provider's use or occupation of the rights-of-way, the provider shall be responsible for payment of its pro rata share of such taxes, payable annually unless otherwise required by the taxing authority. Such payments shall be in addition to any other fees payable pursuant to this chapter.

F. **Interest on Late Payments.** In the event that any payment is not actually received by the city on or before the applicable date fixed in the franchise, interest thereon shall accrue from such date until received at the rate charged for delinquent state taxes.

G. **No Accord and Satisfaction.** No acceptance by the city of any fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of such fee payment be construed as a release of any claim the city may have for additional sums payable.

H. **Not in Lieu of Other Taxes or Fees.** The fee payment is not a payment in lieu of any tax, fee or other assessment except as specifically provided in this chapter, or as required by applicable law. By way of example, and not limitation, excavation permit fees and fees to obtain space on the city-owned poles are not waived and remain applicable.

I. **Continuing Obligation and Holdover.** In the event a provider continues to operate all or any part of the system after the term of the franchise, such operator shall continue to comply with all applicable provisions of this chapter and the franchise, including, without limitation, all compensation and other payment provisions throughout the period of such continued operation; provided, that any such continued operation shall in no way be construed as a renewal or other extension of the franchise, nor as a limitation on the remedies, if any, available to the city as a result of such continued operation after the term, including, but not limited to, damages and restitution.

J. **Costs of Publication.** A provider shall assume any publication costs associated with its franchise that may be required by law. (Ord. 248-97 § 4)

5.24.070 Franchise applications.

A**. Franchise** Application. To obtain a franchise to construct, own, maintain or provide services through any system within the city, to obtain a renewal of a franchise granted pursuant to this chapter, or to obtain the city approval of a transfer of a franchise, as provided in Section 5.24.090(A)(2), granted pursuant to this chapter, an application must be filed with city on the form attached to the ordinance codified in this chapter as Exhibit A, which is incorporated by reference. The application form may be changed by the city administrator so long as such changes request information that is consistent with this chapter. Such application form, as amended, is incorporated by reference.

B**. Application Criteria.** In making a determination as to an application filed pursuant to this chapter, the city may, but shall not be limited to, request the following from the provider:

1. A copy of the order from the PSC granting a certificate of convenience and necessity;

2. Certification of the provider's financial ability to compensate the city for provider's intrusion, maintenance and use of the rights-of-way during the franchise term proposed by the provider;

3. Provider's agreement to comply with the requirements of Section 5.24.080.

C. **Franchise Determination.** The city, in its discretion, shall determine the award of any franchise on the basis of these and other considerations relevant to the use of the rights-of-way, without competitive bidding. (Ord. 248-97 § 5)

5.24.080 Construction and technical requirements.

A. **General Requirement.** No provider shall receive a franchise unless it agrees to comply with each of the terms set forth in this section governing construction and technical requirements for its system, in addition to any other reasonable requirements or procedures specified by the city or the franchise, including requirements regarding locating and sharing in the cost of locating portions of the system with other systems or with city utilities. A provider shall obtain an excavation permit, pursuant to the excavation ordinance, before commencing any work in the rights-of-way.

B**. Quality.** All work involved in the construction, maintenance, repair, upgrade and removal of the system shall be performed in a safe, thorough and reliable manner using materials of good and durable quality. If, at any time, it is determined by the FCC or any other agency granted authority by federal law or the FCC to make such determination, that any part of the system, including, without limitation, any means used to distribute signals over or within the system, is harmful to the public health, safety or welfare, or quality of service or reliability, then a provider shall, at its own cost and expense, promptly correct all such conditions.

C**. Licenses and Permits.** A provider shall have the sole responsibility for diligently obtaining, at its own cost and expense, all permits, licenses or other forms of approval or authorization necessary to construct, maintain, upgrade or repair the system, including but not limited to any necessary approvals from persons and/or the city to use private property, easements, poles and conduits. A provider shall obtain any required permit, license, approval or authorization, including but not limited to excavation permits, pole attachment agreements, etc., prior to the commencement of the activity for which the permit, license, approval or authorization is required.

D. **Relocation of the System.**

1**. New Grades or Lines.** If the grades or lines of any rights-of-way are changed at any time in a manner affecting the system, then a provider shall comply with the requirements of the excavation ordinance.

2. **City Authority to Move System in Case of Emergency.** The city may, at any time, in case of fire, disaster or other emergency, as determined by the city in its reasonable discretion, cut or

move any parts of the system and appurtenances on, over or under the rights-of-way of the city, in which event the city shall not be liable therefore to a provider. The city shall notify a provider in writing prior to, if practicable, but in any event as soon as possible and in no case later than the next business day following any action taken under this section. Notice shall be given as provided in Section 5.24.150.

3. **Provider Required to Temporarily Move System for Third Party.** A provider shall, upon prior reasonable written notice by the city or any person holding a permit to move any structure, and within the time that is reasonable under the circumstances, temporarily move any part of its system to permit the moving of the structure. A provider may impose a reasonable charge on any person other than the city for any such movement of its systems.

4. **Rights-of-Way Change--Obligation to Move System.** When the city is changing a rights-of-way and makes a written request, a provider is required to move or remove its system from the rights-of-way, without cost to the city, to the extent provided in the excavation ordinance. This obligation does not apply to systems originally located on private property pursuant to a private easement, which property was later incorporated into the rights-of-way, if that private easement grants a superior vested right. This obligation exists whether or not the provider has obtained an excavation permit.

E. **Protect Structures.** In connection with the construction, maintenance, repair, upgrade or removal of the system, a provider shall, at its own cost and expense, protect any and all existing structures belonging to the city. A provider shall obtain the prior written consent of the city to alter any water main, power facility, sewerage or drainage system, or any other municipal structure on, over or under the rights-of-way of the city required because of the presence of the system. Any such alteration shall be made by the city or its designee on a reimbursable basis. A provider agrees that it shall be liable for the costs incurred by the city to replace or repair and restore to its prior condition in a manner as may be reasonably specified by the city, any municipal structure or any other rights-of-way of the city involved in the construction, maintenance, repair, upgrade or removal of the system that may become disturbed or damaged as a result of any work thereon by or on behalf of a provider pursuant to the franchise.

F. **No Obstruction.** In connection with the construction, maintenance, upgrade, repair or removal of the system, a provider shall not unreasonably obstruct the rights-of-way of fixed guide way systems, railways, passenger travel, or other traffic to, from or within the city without the prior consent of the appropriate authorities.

G. **Safety Precautions.** A provider shall, at its own cost and expense, undertake all necessary and appropriate efforts to prevent accidents at its work sites, including the placing and maintenance of proper guards, fences, barricades, security personnel and suitable and sufficient lighting, and such other requirements prescribed by OSHA and Utah OSHA. A provider shall comply with all applicable federal, state and local requirements including but not limited to the National Electric Safety Code.

H. **Repair.** After written reasonable notice to the provider, unless, in the sole determination of the city, an eminent danger exists, any rights-of-way within the city which are disturbed or damaged during the construction, maintenance or reconstruction by a provider of its system may be repaired by the city at the provider's expense, to a condition as good as that prevailing before such work was commenced. Upon doing so, the city shall submit to such a provider an itemized statement of the cost for repairing

and restoring the rights-of-ways intruded upon. The provider shall, within thirty (30) days after receipt of the statement, pay to the city the entire amount thereof.

I. **System Maintenance.** A provider shall:

1. Install and maintain all parts of its system in a non-dangerous condition throughout the entire period of its franchise.

2. Install and maintain its system in accordance with standard prudent engineering practices and shall conform, when applicable, with the National Electrical Safety Code and all applicable other federal, state and local laws or regulations;

3. At all reasonable times, permit examination by any duly authorized representative of the city of the system and its effect on the rights-of-way.

J**. Trimming of Trees.** A provider shall have the authority to trim trees, in accordance with all applicable utility restrictions, ordinance and easement restrictions, upon and hanging over rights-of-way so as to prevent the branches of such trees from coming in contact with its system. (Ord. 248-97 § 6)

5.24.090 Franchise and license nontransferable.

A**. Notification of Sale.**

1. **PSC Approval.** When a provider is the subject of a sale, transfer, lease, assignment, sublease or disposed of, in whole or in part, either by forced or involuntary sale, or by ordinary sale, consolidation or otherwise, such that it or its successor entity is obligated to inform or seek the approval of the PSC, the provider or its successor entity shall promptly notify the city of the nature of the transaction. The notification shall include either:

a. The successor entity's certification that the successor entity unequivocally agrees to all of the terms of the original provider's franchise agreement; or

b. The successor entity's application in compliance with Section 5.24.070.

2. **Transfer of Franchise.** Upon receipt of a notification and certification in accordance with subsection (A)(1)(a) of this section, the city designee, as provided in Subsection 5.24.110(A)(1), shall send notice affirming the transfer of the franchise to the successor entity. If the city has good cause to believe that the successor entity may not comply with this chapter or the franchise agreement, it may require an application for the transfer.

The application shall comply with Section 5.24.070.

3. If PSC Approval No Longer Required. If the PSC no longer exists, or if its regulations or state law no longer require approval of transactions described in subsection A of this section, and the city has good cause to believe that the successor entity may not comply with this chapter

or the franchise agreement, it may require an application. The application shall comply with Section 5.24.070.

B**. Events of Sale.** The following events shall be deemed to be a sale, assignment or other transfer of the franchise requiring compliance with subsection A of this section: (i) the sale, assignment or other transfer of all or a majority of a provider's assets to another person; (ii) the sale, assignment or other transfer of capital stock or partnership, membership or other equity interests in a provider by one or more of its existing shareholders, partners, members or other equity owners so as to create a new controlling interest in a provider; (iii) the issuance of additional capital stock or partnership, membership or other equity interest by a provider so as to create a new controlling interest in such a provider; or (iv) the entry by a provider into an agreement with respect to the management or operation of such provider or its system. (Ord. 248-97 § 7)

Chapter 5.28 HOME OCCUPATIONS

Sections:

(Ord. 325-11, approved 03/15/2011)

5.28.010 Definitions.

"**Home occupation**" means any occupation conducted within a dwelling and carried on only by persons residing in the dwelling, which is clearly incidental and secondary to the use of the dwelling and for which a Home Occupation Business License has been issued by West Bountiful City.

5.28.020 License required.

The purpose of this chapter is to protect the residential character and lifestyle of residential zones within West Bountiful City. To ensure compliance with this chapter, a Home Occupation Business License must be obtained

from West Bountiful City before a person may use any part of a dwelling in a residential zone for a home occupation. Under certain circumstances provided in Section 5.28.030, a conditional use permit must also be obtained. (Ord. 245-97) (part)

5.28.030 Application for license.

A. A Home Occupation Business License Application may be obtained from the City offices or from the City website. Each application shall be accompanied with payment of the business license fee as provided in 5.04.040. It is unlawful for any person to provide false information to the City in relation to the application for, issuance of, or continuation of, a business license, or to knowingly cause or permit the same to be done.

B. The applicant shall give written notice of the nature and description of the home occupation to all property owners within three hundred (300) feet of the exterior boundaries of the property upon which the home occupation is to be conducted. Evidence of the required notice must be supplied to West Bountiful City as part of the Home Occupation Business License Application.

C. Except as provided in subsection D, the City Recorder may issue the Home Occupation Business License when:

    1. The requirements of 5.28.040 have been satisfied; or

    2. If a conditional use permit is required from the Planning Commission, the permit has been issued, the conditions of that permit have been satisfied, and the applicant has agreed to the conditions in writing.

D. Notwithstanding subsection C, the applicant must also apply for a conditional use permit and pay the application fee for review and approval by the Planning Commission under Chapter 17.60 if any of the following apply:

    1. The home occupation requested conflicts with the minimum requirements provided in Section 5.28.040;

    2. The City Recorder determines that approval of the application may conflict with the intent of this chapter without imposing additional conditions;

    3. The applicant or City receives a notice of protest to the application; or

    4. The Home Occupation Business License Application is for a day care, nursery, or preschool, which must follow Utah Department of Health regulations for child day care including, but not limited to, a background check.

5.28.040 Requirements.

A. A person who is not a resident of the dwelling shall not be employed to work on the premises.

B. The home occupation must be clearly incidental and secondary to the use of the dwelling or structure in which it is located and may not change its purpose or character.

C. The home occupation shall not involve the use of any part of a dwelling or structure for which by reason of state, federal or local law or ordinances, special or extra entrances or exits or special rooms are required as a prerequisite condition to the operation of such use or for which said laws or ordinances require a license or permit, except as approved by the Planning Commission.

D. More than one Home Occupation Business License may be issued if the additional businesses will function as one business operation and if after review it is specifically determined that the total of all businesses will not have an impact on the community greater than one business.

E. The home occupation shall not involve the use of more than the equivalent of fifteen (15) percent of the main floor area of the dwelling, nor involve the installation of special equipment and/or fixtures, plumbing or electrical wiring for such special fixtures or equipment which are not ordinarily or customarily used in a dwelling, unless otherwise approved by the Planning Commission.

F. Inventory or supplies may not occupy more than fifty (50) percent of the permitted area.

G. The home occupation must be operated entirely within the approved dwelling, except that 25% of a garage or accessory building or structure on the same property as the dwelling may be used, so long as it does not change the residential character of the lot or would otherwise be contrary to the purpose of this chapter. Additional conditions may be imposed by the Planning Commission if the garage is to be used for:

    1. Storage of chemicals or tanks; or

    2. Storage of equipment or vehicles.

H. If a home occupation is authorized for a garage, off-street parking arrangements in compliance with this title must exist for any vehicles owned and/or operated by the applicant.

I. Yard space may not be used for home occupation activities, except:

    1. Outside private swimming pools may be used for swimming instruction if the swimming instruction is given by a bona fide resident of the dwelling.

    2. Yard space may be used for day care provided the yard is entirely fenced.

    3. Yard space may be used for other similar activities that will not alter the residential nature of the neighborhood in which the home occupation will be conducted. In no event shall outdoor storage be permitted in relationship to the Home Occupation Business License.

J. The home occupation must comply with all fire, building, plumbing, electrical and health codes and all federal, state and local laws.

K. The home occupation may not cause or create a demand from municipal or utility services or community services, including traffic, in excess of those usually and customarily provided for in residential uses. Home occupations which will generate additional traffic or parking in excess of those usual and customary residential uses require Planning Commission approval.

L. The home occupation may not be a nuisance or cause undue disturbance to the neighborhood.

M. The home occupation may not alter the residential character of the premises or unreasonably disturb the peace and quiet, including radio and television reception, of the neighborhood by reasons of color, design, materials, construction, lighting, odors, sounds, noise or vibrations.

N. Merchandise, goods or customer services may not be advertised or otherwise visible from the exterior of the building in which the home occupation is operated.

O. Signs, advertising or displays of any kind may not be visible from the public streets or from the exterior boundaries of the property on which the home occupation is conducted.

P. The home occupation shall be operated in a manner that complies with any special conditions established by the Planning Commission and made part of the record in connection with the application for a conditional use permit, as the Planning Commission deems necessary to carry out the provisions and intent of this chapter and Chapter 17.60. (Ord. 245-97 (part)

Q. Home occupations requiring State or Federal licensing must be in compliance with all State and Federal regulations before a Home Occupation Business License will be issued.

5.28.050 Exemptions to license.

The following uses are exempt from the provisions of this chapter:

A. Sale of goods or services by City residents age 14 and under which sale of goods or services does not conflict with other sections of this Code;
B. Temporary home occupations such as garage sales, yard sales, or craft boutiques that occur not more than four (4) times a year with each event lasting not more than seventy-two (72) hours;
C. Promotional meetings for the purpose of taking orders for merchandise, by invitation only, which occur not more than once per month;
D. Community/neighborhood fund raisers which are sponsored and/or approved by City staff;
E. Any person engaged in business for solely religious, charitable or other type of strictly nonprofit purpose who is tax-exempt in such activities under the laws of the United States and the State of Utah;
F. Any person engaged in a business specifically exempted from municipal taxation and fees by the laws of the United States or the State of Utah;
G. Any person selling, offering for sale, or taking orders for or soliciting the sale of any farm products, but not including dairy products, actually produced, raised or grown by the person so selling, offering for sale or taking orders for, or soliciting the sale of any such farm products; and
H. Other exemptions as specifically approved in writing by the City Council.

***5*.28.060 Noncompliance—Revocation and suspension of permit.**

The City Recorder may revoke or suspend, or decline to renew, a Home Occupation Business License for a violation of any of the requirements of this chapter, or for failure of the licensee to comply with the conditions of the license. The Planning Commission may revoke, suspend or modify the conditional use permit associated with a Home Occupation Business License for violation of any of the requirements of this chapter or Chapter 17.60, or the conditions of the permit; or for failure of the permit holder to maintain the Home Occupation Business License. The Planning Commission may suspend the permit temporarily to give the permit holder a specified reasonable period of time to cure deficiencies. If such deficiencies are not cured by the specified period of time, the Planning Commission shall revoke the conditional use permit associated with the Home Occupation Business License. During the period of suspension, the Planning Commission may impose any restrictions or conditions upon the permit holder, including cessation of all activities. (Ord. 245-97) (part)

5.28.070 Home Occupation Business License renewal and delinquency.

A Home Occupation Business License is subject to annual renewal, with the license year being the calendar year.

All license fees provided herein shall be due and payable on or before January 5th of any calendar year, or before commencing a new business. In the event any fee is not paid on or before such date, a penalty of fifty (50) percent of the amount due shall be imposed and shall become a part of the license fee imposed by this chapter. The date of delinquency and the amount of the penalty may be amended periodically by resolution of the City Council provided that the amended date and penalty shall be prospective only, effective the next calendar year.

5.28.080 License not transferable.

No license granted or issued under the provisions of this chapter shall in any manner be assignable or transferable, or authorize any person other than the licensee named therein to do the business specified in the license.

Chapter 05.36 ALARM SYSTEMS

Sections:

5.36.010 Purpose and Scope.

(Ord. 331-11, approved 09/26/2011)

The purpose of this chapter is to encourage alarm system users and alarm providers to assume responsibility for maintaining the reliability and the proper use of private alarm systems, to reduce unnecessary police emergency response to false alarms, and thereby to protect the emergency response capability of the city from misuse.

This chapter governs intrusion and duress alarm systems; requires permits, licensure and registration; establishes a system of administration; and provides for the punishment of violations.

The provisions of this chapter shall apply to all alarm users, alarm providers, and alarm systems which are installed, connected, monitored, operated or maintained in the City.

5.36.020 Definitions.

"**Alarm Coordinator**" means an individual designated by the West Bountiful Police Department to issue permits and enforce the provisions of this chapter.

"**Alarm Provider**" means any individual, partnership, corporation or other entity engaged in the business of selling, leasing, servicing, maintaining, monitoring, repairing, replacing, moving, removing, planning the installation or assisting in the installation of any alarm system in the city.

"**Alarm System**" means any mechanism, equipment, or device which is designed to detect an unauthorized intrusion or entry into any building or onto any property, or to direct attention to a robbery, burglary, or other emergency in progress, and to signal such occurrences by a local or audible alarm or by a silent or remote alarm. The following devices shall not constitute alarm systems within the meaning of this subsection:

A. Devices which do not register alarms that are audible, visible, or perceptible outside the protected premises;

B. Devices which are not installed, operated or used for the purpose of reporting an emergency to the police department; and

C. Alarm devices affixed to motor vehicles.

"**Alarm User**" means the person, occupant, homeowner, firm, partnership, association, corporation, company or organization of any kind in control of any home, building, structure or facility or portion thereof where an alarm system is maintained.

"**Duress Alarm**" means a silent alarm signal generated by the manual activation of a device intended to signal a crisis situation requiring police response.

"**Emergency Responder**" means a police officer or other emergency service agency designated by the West Bountiful Police Department.

"**False Alarm**" means the activation of an alarm system which results in a response by an emergency responder where an emergency does not exist. It includes an alarm signal caused by conditions of nature, which are normal for that area and subject to control by the alarm provider or alarm user. "False alarm" does not include an alarm signal caused by extraordinarily violent conditions of nature not reasonably subject to control.

"**Intrusion Alarm System**" means an alarm system signaling an entry or attempted entry into the area protected by the system. The alarm can be silent or audible.

5.36.030 Alarm Provider Requirements.

A. It is unlawful for any person, partnership, corporation or association to own, manage, conduct or carry on the business of selling, leasing, installing, servicing, maintaining, repairing, replacing, moving or removing, or causing to be sold, leased, installed, serviced, maintained, repaired, replaced, moved or removed in or on any building or other property within the City any device known as an intrusion or physical duress alarm system, or automatic dialing device connected to an answering service, unless there exists a current state license, granted and remaining in compliance with the provisions of the Utah Burglar Alarm Security and Licensing Act, UCA 58-65-102 et seq., as amended, or its successor.

B. The name, address and license number or ID card number of the alarm provider must be registered with the City's alarm coordinator.

C. No alarm provider shall install, connect, program, maintain or allow to be maintained or operated any device which automatically dials an emergency responder and then relays any pre-recorded message to report a robbery, burglary, intrusion or other emergency.

D. Every alarm provider selling, leasing or furnishing to any user an alarm system which is installed on premises located in the area subject to this chapter shall furnish the user with written instructions and training that provide information to enable the user to operate the alarm system properly and avoid false alarms. Written operating instructions and the phone number of the monitoring station, shall be maintained at each alarm site.

E. Before installing any alarm system, the alarm provider shall notify the alarm user of this alarm ordinance and the City's alarm user permit requirements.

F. An alarm provider shall notify the alarm coordinator of any alarm user who has canceled or otherwise terminated their alarm services with the alarm business.

5.36.040 Alarm User Requirements.

A. Every alarm user shall have on its premises or in its possession an alarm user permit issued by the alarm coordinator. Such permit shall be issued upon filing by the user with the police department a completed alarm permit application as provided in the chapter. No fee will be collected for this permit.

B. A separate permit shall be required for each alarm site.

C. The permit application shall be submitted to the alarm coordinator prior to operation of the alarm system or prior to an existing system being taken over by a different alarm user or alarm company.

D. The alarm user shall be responsible for the maintenance and operation of the alarm system.

E. An alarm user permit shall continue in effect until there is a change in ownership of the alarm system, at which time the permit shall expire. Alarm permits shall not be transferable.

5.36.050 Alarm User Permit Application Information.

A. An alarm permit application shall include the following information and shall be completed by the alarm user and submitted to the alarm coordinator prior to the operation of the system.

1. The full name, address and telephone number of both the owner and lessee (if any) on whose premises the system will be installed, operated, connected, monitored or maintained.
2. The name of the person or licensed alarm provider installing, monitoring, maintaining or servicing the system.
3. The names, addresses and telephone numbers of three (3) individuals who may be contacted by the police officers responding to an alarm. The persons listed shall have authority to act for the alarm user in granting police officers access to any portion of the premises and shall be knowledgeable in the basic operation of the alarm system.
4. The alarm permit shall contain such additional information as the chief of police shall reasonably deem necessary to properly identify and locate the alarm user, the alarm business installing, servicing, monitoring or maintaining the alarm system, and the persons to be contacted in the event of the filing of an alarm report.
5. The alarm coordinator will furnish a copy of the alarm permit to the named licensed alarm provider that will be monitoring, maintaining and servicing the alarm system.

B. The alarm user will notify the alarm provider and the alarm coordinator of any changes in names, addresses and telephone numbers of the individuals who may be contacted by police officers responding to an alarm.

C. All alarm permit applications and permit information relating to specific alarm sites shall be private records as defined under Utah Code, section 63-2-302(2)(d), or its successor, and protected records under Utah Code section 63-2-304(10), or its successor, and shall be held in strict confidence by the City and not disclosed except as required under the Utah Government Records Access and Management Act, Utah Code section 63-2-101 et seq., or their successors.

5.36.060 False Alarms; Fines.

A. No person shall activate any intrusion or duress alarm knowing the same to be false.

B. An alarm user shall be responsible for false alarms caused by any person having authorized access to the alarm site from the alarm user.

C. The City is authorized to assess a fine against an alarm user for the activation of an intrusion or duress alarm which the emergency responder determines to be false. The fines shall be assessed as follows:

1. No fine shall be assessed for the first three incidents of a false alarm within a twelve month period.
2. A fine of fifty ($50) dollars shall be charged for the fourth incident of a false alarm within twelve months.
3. A fine of one hundred ($100) dollars shall be charged for the fifth false alarm within a twelve month period.
4. A fine of one hundred fifty ($150) dollars shall be charged for the sixth, and all subsequent, false alarms within a twelve month period.

D. The City is authorized to assess a fine against an alarm user when an emergency responder responding to an alarm is unable to contact any of the listed parties due to outdated or inaccurate information provided by the alarm user, or if the listed parties fail to respond to the scene within thirty (30) minutes of notice. Any such failure by an alarm user will be treated as if it were a false alarm for purposes of computing fines and considering permit revocation.

E. All false alarm fines are due and payable within thirty (30) days of the date written notice is issued by the city.

5.36.070 Permit Revocation.

A. An alarm permit may be revoked for any of the following reasons:
   1. An alarm user has more than six (6) false alarms at one address within a twelve (12) month period.
   2. An alarm user fails to pay an assessed false alarm fine within thirty (30) days of the date written notice is issued by the city.

B. Upon permit revocation by the alarm coordinator, the city shall decline to respond to future alarms or may require the alarm system to be disconnected.

C. Any alarm user, whose permit is revoked by the City and desires reinstatement, shall make application for a new alarm permit. Such new alarm permit shall not be issued until the alarm user pays:
   1. A reinstatement fee of one hundred ($100) dollars; and
   2. Any unpaid false alarm fines assessed under the revoked permit.

5.36.080 City Liability Limitations.

The City shall not be liable for any defects in operation of intrusion or duress alarm systems, for any failure or neglect to respond appropriately upon the receipt of an alarm nor for the failure or neglect of any person registered or issued a permit pursuant to this chapter in connection with the installation, operation or maintenance of the equipment necessary to or incident to the operation of such system. In the event the city finds it necessary to order the system disconnected, the city shall incur no liability for such action.

5.36.090 Violation; Penalty.

Notwithstanding any other provision of this Chapter, failure of any person to comply with the requirements of this chapter constitutes a class B misdemeanor and shall be punishable as such by law.

Title 6 ANIMALS

Chapters:

Chapter 6.04 DEFINITIONS

Sections:

6.04.010 Definitions.

The following definitions apply to the provisions of this title:

"**Animal**" means any and all types of livestock, dogs and cats, and all other subhuman creatures both domestic and wild, male and female, singular and plural.

"**Animal boarding establishment**" means any establishment that takes in animals and boards them for profit.

"**Animal control department**" means the Davis County animal control department.

"**Animal control officer**" means any police officer, including members of the West Bountiful City police department, Davis County sheriff's department, and Davis County animal control officers and employees.

"**Animal grooming parlor**" means any establishment maintained for the purpose of offering cosmetological services for animals for profit.

"**Animal shelter**" means any facility owned and operated by a governmental entity or any animal welfare organization which is incorporated within the state of Utah for the purpose of preventing cruelty to animals and used for the care and custody of seized, stray, homeless, quarantined, abandoned or unwanted dogs, cats or other small domestic animals.

"**Animals at large**" means an animal when it is off the owners' property and not under immediate control by means of a durable restraint device, capable of keeping the animal restrained; or when the animal on the property of the owner and not securely confined by a leash, building, fenced area, or appropriate transport device.

"**Bite**" means any actual puncture, tear or abrasion of the skin inflicted by the teeth of an animal.

"**Cat**" means any age feline of the domesticated types.

"**Cattery**" means an establishment for boarding, breeding, buying, grooming or selling cats for profit.

"Dangerous animal" means any animal that, according to the records of the animal control department, the city, or the Davis County sheriff's department:

1. Has inflicted serious injury on a human being with or without provocation on public or private property;

2. Has killed a domestic animal with or without provocation while off the owner's property;

3. Has previously been found to be potentially dangerous, the owner having received notice of such and it is witnessed and documented that the animal aggressively bites, attacks or endangers the safety of humans or domestic animals; or

4. Has been found to be in violation of any of the restrictions placed upon the animal by the department of animal control, pertaining to a potentially dangerous animal, as designated in this title.

"**Dog**" means any canis familiaris over four months of age. Any canis familiaris under the age of four months is a puppy.

"**Domesticated animals**" means animals accustomed to living in or about the habitation of man, including but not limited to, cats, dogs, fowls, horses, swine, goats, sheep, mules, donkeys and cattle.

"**Estray**" means any livestock, found running at large, whose owner cannot be found after a reasonable search.

"**Guard dog**" means a working dog which must be kept in a fenced run or other suitable enclosure during business hours, or on a leash or under absolute control while working, so that it cannot come into contact with the public.

"**Kennel**" means land or buildings used in the keeping of three or more dogs, four months or older.

"**Livestock**" means any normally domesticated animal that is not a cat, or dog, such as: cattle, sheep, goats, mules, burros, swine, horses, geese, ducks, turkeys, etc.

"**Pet**" means a domesticated animal kept for pleasure rather than utility, including but not limited to, birds, cats, dogs, fish, hamsters, mice, and other animals associated with man's environment.

"**Pet shop**" means any establishment containing cages or exhibition pens, not part of a kennel or cattery, wherein dogs, cats, birds or other pets for sale are kept or displayed.

"**Potentially dangerous animal**" means any animal that with or without provocation chases or approaches a person upon the streets, sidewalks, or any public grounds in a threatening or menacing fashion, or apparent attitude of attack, or any animal with a known propensity, tendency or disposition to attack with or without provocation. In addition, any animal that because of witnessed and documented action is believed capable of causing injury, or otherwise posing a threat to the safety of humans or domestic animals.

"**Quarantine**" means the isolation of an animal in a substantial enclosure so that the animal is not subject to contact with other animals or unauthorized persons.

"**Restraint device**" means any chain, leash, cord, rope or other device commonly used to restrain an animal.

"**Riding school**" or "**stable**" means an establishment which offers boarding and/or riding instruction of any horse, pony, donkey, mule or burro or which offers such animals for hire.

"**Vicious animal**" means any animal which has:

1. Inflicted severe injury on a human being with or without provocation on public or private property;

2. Has killed a domestic animal with or without provocation while off the owner's property; or

3. Has been previously found to be dangerous, the owner having received notice of such and the animal again bites, attacks or endangers the safety of humans or domestic animals, or it is witnessed and documented that the animal is in violation of restrictions placed upon it as a potentially dangerous or dangerous animal pursuant to Section 6.16.060.

"**Wild animal**" means any animal which is not commonly domesticated, or which is of a wild or predatory nature, or any animal which, because of its size, growth propensity, vicious nature or other characteristics, would constitute an unreasonable danger to human life, health or property if not kept, maintained or confined in a safe and secure manner. Those animals, however domesticated, shall include but are not limited to:

1. Alligators, crocodiles, caiman;

2. Bears (ursidae): all bears including grizzly bears, brown bears and black bears;

3. Cat family (felidae): all except the commonly accepted domesticated cats, including cheetahs, cougars, leopards, lions, lynx, panthers, mountain lions, tigers and wildcats;

4. Dog family (canidae): all, except domesticated dogs, and including wolf, fox, coyote and wild dingo. Any dog which is a product of cross breeding with a wild animal as described above shall be considered a wild animal;

5. Porcupine;

6. Primates (All subhuman primates);

7. Raccoons of all varieties;

8. Skunks;

9. Venomous snakes or lizards; and

10. Weasels: all, including weasels, martins, wolverines, ferrets, badgers, otters, ermine, mink and mongoose, except that the possession of mink shall not be prohibited when raised commercially for their pelts, in or upon a properly constructed legally operated ranch. (Prior code § 6-20-1)

Chapter 6.08 ADMINISTRATION AND ENFORCEMENT

Sections:

6.08.010 Administration.

Any animal control officer, as defined in Section 6.04.010, may enforce the provisions of this title in West Bountiful City. (Prior code § 6-20-2)

6.08.020 Enforcement and penalties.

A. Power and Authority of Animal Control Officer. In the performance of his or her duties, an animal control officer shall have the power and authority of that office within the animal control department.

B. Right of Entry. In the enforcement of this title, all animal control officers are authorized to enter onto the open premises of any person or entity.

C. Interfering with Officers. It is unlawful for any person to knowingly and intentionally interfere with an animal control officer in the lawful discharge of his or her duties as prescribed in this title.

D. Penalties. Any person violating any provision of this title shall be deemed guilty of a Class B misdemeanor and shall be punished within the confines of that class as prescribed by the laws of the state of Utah.

If any violation be continued, each day's violation shall be deemed a separate offense.

E. Applicability of Procedure. The foregoing provisions of this title shall govern all peace officers in issuing citations for violations of this title, but the procedure prescribed herein shall not otherwise be exclusive of any other method prescribed by law for the arrest and prosecution of a person for offense of like grade. (Prior code § 6-20-8)

Chapter 6.12 DOGS

Sections:

6.12.010 License required.

It is unlawful for any person to own, keep, harbor or maintain a dog over the age of four months of age, without registering and obtaining a license for such dogs from the animal control department or another

authorized vendor. All dogs brought into the city shall be registered and licensed within thirty (30) days after they enter the city, or within thirty (30) days after having reached the age of four months. (Prior code § 6-20-3(A))

6.12.020 Annual fee.

The annual fee for all dog licenses shall be set periodically by resolution of the board of county commissioners of Davis County.

For any dog not registered within thirty (30) days after having been brought into the city, or within thirty (30) days of being four months old, the owner thereof will be required to pay an additional license late fee, the amount of which shall be set periodically by resolution of the board of county commissioners of Davis County. No dog shall be licensed as spayed or neutered without proof that the surgery has been performed. (Prior code § 6-20-3(B))

6.12.030 License renewal.

Dog licenses shall be renewed each year, with each license being valid from the date of purchase for twelve (12) consecutive months. The license expiration date shall be one year from the date of purchase. Licenses not renewed within thirty (30) days of expiration shall be subject to the applicable late fee. (Prior code § 6-20-3(C))

6.12.040 License exemptions.

The provisions of this chapter shall not apply to the following (except that all dogs shall have a current rabies vaccination every two years):

A. Licensed dogs whose owners are nonresidents, temporarily (up to thirty (30) days) of the city; provided, however, that licensed dogs whose owners remain within the city longer than thirty (30) days may transfer the current license from another jurisdiction to a license issued by Davis County upon payment of a transfer fee and proof of current rabies vaccination;

B. Individual dogs within a properly licensed kennel or other such establishment;

C. A person sixty (60) years of age or older may, upon proof of age, obtain a dog license for an unsterilized dog at a reduced rate as set periodically by the county commission. A person sixty (60) years of age or older may obtain a dog license for a spay or neutered dog for a one-time fee as established by the county commission;

D. "Seeing-eye" dogs properly trained to assist blind persons if such dogs are actually being used by the blind persons to assist them in moving from place to place; or "seeing-eye" dogs registered in a recognized training program;

E. "Hearing" dogs properly trained to assist deaf persons, if such dogs are actually used by deaf persons to aid them in responding to sounds;

F. Dogs especially trained to assist officials of governmental agencies in the performance of their duties, and which are owned or maintained by such agencies. (Prior code § 6-20-3(D))

6.12.050 Tag and collar.

Upon payment of the license fee, there shall be issued to the owner, a metallic tag for each dog so licensed. Every owner shall be required to provide each dog with a collar to which the license tag must be affixed, and shall see that the collar and tag are worn constantly. In the event a dog tag is lost or destroyed, a duplicate will be issued by the animal control department upon presentation of a receipt showing payment of the license fee for the current year, and upon payment of a duplicate tag fee as set periodically by the board of county commissioners of Davis County. The license shall not be transferable from one dog to another and no refund shall be made on any dog license for any reason whatsoever. (Prior code § 6-20-3(E))

6.12.060 Removal of tag.

It is unlawful to deprive a registered dog of its collar and/or its tag. (Prior code § 6-20-3(F))

6.12.070 Kennel license.

It is unlawful for any person to operate or maintain a kennel, as defined in this title, without first obtaining a kennel license from the animal control department, which license shall be in addition to all other required zoning and health inspections and permits as required by city and state law. Animal owners making application for a kennel license shall first seek approval from the city zoning department, and an inspection approval from the Davis County health department. Upon notification from the health department that the kennel facility has been inspected and approved, animal control department personnel will perform an additional and final inspection, and upon approval, issue a kennel license. Kennel licenses shall also be valid for one year from the date of purchase. No kennel license shall be issued to any residence within any neighborhood with zoning regulations that prohibit the same. (Prior code § 6-20-3(G))

6.12.080 Number of dogs per residence.

No person or persons at any one residence within the city shall at any one time own, harbor, license or maintain more than two dogs in any combination, except as otherwise provided in this section. (Prior code § 6-20-3(H))

6.12.090 Regulatory permits.

It is unlawful for any person to operate a boarding kennel, cattery, pet shop, groomery, riding stable, or any similar establishment, unless such person first obtains a regulatory permit from the animal control department, which permit shall be in addition to all other required licenses. All applications for permits to operate such establishments shall be submitted together with the required permit fee on a printed form provided by the animal control department. Before the permit is issued, approval shall be granted by the Davis County health department, the city zoning commission and the animal control department. Establishments in existence prior to the ratification of the ordinance codified in this title shall obtain this regulatory permit within ninety (90) days of written notification of the regulatory inspector that such a permit is necessary. (Prior code § 6-20-3(I))

6.12.100 Display of permit.

A valid regulatory permit shall be posted in a conspicuous place in each establishment for which such permits are required. The permit shall be considered an appurtenant to the premises, and not transferable to another

location. The permittee shall notify the animal control department within thirty (30) days of any change of its establishment or operation which may affect the status of the permit. In the event of a change in ownership of the establishment, the permittee shall notify the animal control department immediately. Permits shall not be transferable from one owner to another. (Prior code § 6-20-3(J))

6.12.110 Renewal of permit.

Any regulatory permit issued pursuant to this chapter shall automatically expire one year following the date of issue. Within two months prior to the date of expiration of the permit, the permittee shall apply for a renewal of the permit and pay the required fee. Any application made later than thirty (30) days after the expiration date, except in application for a new establishment opening subsequent to that date, shall be accompanied by a late application fee in addition to the regular permit fee. (Prior code § 6-20-3(K))

6.12.120 Exemptions.

Research facilities where bona fide medical or related research is being conducted, humane shelters and other animal establishments operated by state or local governments or which are licensed by federal law are excluded from the licensing requirements of this title. (Prior code § 6-20-3(L))

6.12.130 Inspections.

All establishments required to obtain a permit under this title shall be subject to periodic inspections, and the inspector shall make a report of such inspection with a copy to be filed with the animal control department. (Prior code § 6-20-3(M))

6.12.140 Suspension or revocation of permit.

A. Grounds. A permit may be suspended or revoked or a permit application rejected on any one or more of the following grounds:

1. Falsification of facts in a permit application;

2. Violation of any of the provisions of this title or any other regulation governing the establishment, including noise, building and zoning ordinances, or maintaining or selling illegal species; or

3. Conviction of a charge of cruelty to animals.

B. Notification. If an inspection of any facility operating with a regulatory permit reveals a violation of this title, the inspector shall notify the permit holder or operator of such violation by means of an inspection report form, or other written notice. The notification shall:

1. Set forth the specific violation found;

2. Establish a specific and reasonable period of time for the correction of the violation(s) found;

3. State that any failure to comply with any notice issued in accordance with the provisions of this title shall result in immediate suspension of the permit; and

4. State that an opportunity for an appeal from any notice of inspection finding shall be provided if a written request for hearing is filed with the division of animal control within five days of the date of notice.

C. Procedures. The following procedures apply:

1. Upon request of a hearing, a minimum of five days notice shall be given to the permittee advising him or her of the date and time of such hearing and listing the cause or causes for such suspension or revocation.

2. No new permit shall be issued to any person whose permit has been previously revoked except upon application for a new permit. This application shall be accompanied by the required application fee and shall not be issued unless or until all requirements of this title have been met.

3. Any permit granted under this title may be suspended or revoked by the animal control department for violations of this chapter. (Prior code § 6-20-3(N))

6.12.150 Notice served.

Notice provided for under this chapter shall be deemed to have been properly served when the original of the inspection report form or other notice has been delivered personally to the permit holder or person in charge; or, such notice has been sent by certified mail to the last known address of the permit or license holder. A copy of the notice shall be filed with the records of the department of animal control. (Prior code § 6-20-3(O))

Chapter 6.16 NUISANCE ANIMALS

Sections:

6.16.010 Nuisance animals prohibited.

All persons having custody of an animal shall exercise proper care and control of his or her animal in order to prevent it from becoming a public nuisance. Any owner or possessor of an animal who keeps such animals contrary to the provisions of this title shall be guilty of a Class B misdemeanor and subject to punishment under authority of this title. (Prior code § 6-20-4(A))

6.16.020 Nuisance animal defined.

An animal shall be deemed to be a public nuisance if the animal:

A. Causes damage to the property of anyone other than its owner;

B. Causes unreasonable odors;

C. Causes unsanitary conditions;

D. Barks, whines, howls or makes other disturbing noises for an extended period of time;

E. Chases vehicles;

F. Has been impounded for being at large, or its owner or possessor has been convicted for the animal being at large on three separate occasions within a twelve (12) month period; or

G. Is an animal previously declared potentially dangerous or dangerous and is found in violation of restrictions placed on that animal by the animal control department. (Prior code § 6-20-4(B))

6.16.030 Abatement of nuisance animals.

When it reasonably appears to the animal control department director that any animal is a public nuisance as defined in this chapter, and that such nuisance should be abated, the director shall first attempt to obtain the written consent of the animal owner to abate the animal. Abatement shall be designed to include either relocating or euthanizing the animal. If the animal's owner's consent cannot be readily obtained, the animal control department director may file with the governing court a charge of maintenance of a public nuisance. The charge shall set forth the facts according to the best of the director's information and belief, indicating

that the owner is maintaining a public nuisance, and the nuisance should be abated. Until such time as the owner may be summoned to appear before the court, the animal(s) may be taken into impound by the animal control department and held there pending a decision by the court. If the charge is denied, a hearing will be set pursuant to the normal procedures of the governing court. If the court finds that the charge of maintaining a public nuisance has been proven, the court shall issue an order to the animal control department setting out the method of abatement. Abatement by relocation shall not be an option if the animal represents a continuing threat of serious harm, such as in the case of a vicious dog. If relocation is ordered, the court may set whatever conditions are necessary to guarantee that the animal shall not constitute a nuisance in the future. In the event the court determines that in fact the animal is a public nuisance, the owner shall pay the cost of all impoundment fees, maintenance fees, or any other fee that may incur as a result of such impoundment. (Prior code § 6-20-4(C))

6.16.040 Control and fencing.

A. It is unlawful for any person owning or having the custody, possessions or control of any animal of a class of livestock to allow, either negligently or with specific intent, the animal to run at large in or about a public property or roadway, when such is not permitted by law, or to otherwise permit the animal to herd, pasture, or go upon the land of another without permission.

B. All fencing of property where a class of livestock are kept shall be of sufficient construction to prevent the escape of or injury to the animals being confined within the fencing. The fencing shall be maintained so that no part of the fence, absent extraordinary circumstance, may be broken, damaged or in any way create the possibility of injury to the confined animal or to allow the escape thereof.

C. Failure to properly confine any class of livestock shall constitute a violation of this chapter. (Prior code § 6-20-4(D))

6.16.050 Female dogs in heat.

Any owner or person having charge, care, custody or control of any female dog in heat shall, in addition to restraining the dog from running at large, cause such dog to be constantly confined in a building or secured enclosure to prevent it from attracting by scent or coming in contact with other dogs and creating a nuisance, except for planned breeding. (Prior code § 6-20-4(E))

6.16.060 Possession of potentially dangerous animal.

Any person who owns or maintains a potentially dangerous animal shall use all reasonable means at his disposal to restrict the animal from injuring any other person or animal. The animal control department may, at the discretion of the director or his or her authorized agents, periodically impose specific restrictions regarding the housing of potentially dangerous animals. (Prior code § 6-20-4(F))

6.16.070 Possession of dangerous animals.

A. Any dangerous animal, while on the owner's property, must be securely confined indoors, or in a securely enclosed and locked pen or structure, designed to prevent the animal from escaping and to prevent the entry of young children. Such pen or structure for a dangerous animal shall have secure sides and top and shall also provide protection from the elements for the animal. The structure shall be such that the animal cannot burrow or dig under the sides of the enclosure.

B. Dangerous animals, when outside the proper enclosure, must be under immediate control of a responsible adult by means of an adequate restraint device as defined herein. During those times, the animal shall be muzzled so in such a manner that it will not cause injury to the animal or interfere with its vision or respiration, but shall prevent it from biting any person or animal.

C. The director of animal control or his or her authorized agents may take into immediate possession any dangerous animal if the officer determines that the animal:

1. Is not maintained in a proper enclosure;

2. Is outside of the dwelling of the owner, or outside of a proper enclosure and not under physical restraint of the person; or

3. Has violated prior legal restrictions placed upon the animal by the animal control department as provided in this title. (Prior code § 6-20-4(G))

6.16.080 Failure to confine potentially dangerous animals.

Any owner of any potentially dangerous or dangerous animal who wilfully allows it to go at large or who fails to hold the same in the manner specified for such animal by the department of animal control is guilty of a misdemeanor. (Prior code § 6-20-4(H))

6.16.090 Animals at large prohibited.

It is unlawful for any animal as defined in this chapter to be allowed to run at large as defined in this title. (Prior code § 6-20-4(I))

6.16.100 Allowing domestic fowls to trespass prohibited.

It is unlawful for the owner of any domestic fowl such as turkeys, ducks, geese, chickens, peacocks or any other variety of fowl to permit such fowls to trespass or go upon the premises of another or to run at large on any public property or roadway.

Fowl kept and maintained by the city within the confines of a public park or aviary are exempt, except that they shall not be allowed on public roadways. (Prior code § 6-20-4(J))

6.16.110 Staking animals improperly on enclosed premises.

It is unlawful for any person to chain, stake out or tether any animal on any unenclosed premises in such a manner that the animal may go beyond the property line, unless such person has permission of the owner of the affected property, or the person with whom he or she shares joint tenancy.

No animals are to be staked along public roadway easements. (Prior code § 6-20-4(K))

6.16.120 Animal waste.

The person having custody of an animal shall be responsible for the immediate removal of any excreta deposited by his or her animal on any public walk, recreation area, or private property other than that belonging to the owner of the animal. (Prior code § 6-20-4(L))

Chapter 6.20 IMPOUNDMENT

Sections:

6.20.010 Impoundment authorized.

A. The animal control department shall place all animals which are taken into custody in a designated animal impound facility.

B. The following animals may be taken into custody and impounded as deemed necessary:

1. Any animal being kept or maintained contrary to the provisions of this title;

2. Any animal running at large, with any reasonable means used to immobilize or capture such animal;

3. Any animal which is by this title required to be licensed and is not licensed and any animal not wearing a tag shall be presumed to be unlicensed for the purposes of this chapter;

4. Sick or injured animals whose owner cannot be immediately located or whose owner requests impoundment and agrees to pay a reasonable fee for the services rendered;

5. Any abandoned or neglected animal whose safety may be threatened should the animal not be placed into protective custody;

6. Animals which are not vaccinated for rabies in accordance with the requirements of this title;

7. Any animal needing to be held for quarantine;

8. Any potentially dangerous or dangerous animal not properly confined as required by this chapter; and/or

9. Any animal in the custody of any person or persons who are arrested or otherwise detained by any police officer, in the event another responsible party cannot be located by the owner. (Prior code § 6-20-5(A))

6.20.020 Impoundment/record-keeping requirements.

The impounding facility shall keep a record of each animal impounded, which record shall include the following information:

A. A complete description of the animal, including any tag numbers;

B. The manner and date of impound;

C. The location of the pickup and identification number of the impounding officer;

D. The manner and date of disposal;

E. The name and address of the redeemer or purchaser;

F. The name and address of any person relinquishing the animal;

G. All fees received; and

H. All expenses accruing during impoundment. (Prior code § 6-20-5(B))

6.20.030 Redemption requirements.

A. The owner of any impounded animal or his or her authorized representative may redeem such animal before disposition, provided he or she pays:

1. The impound fees;

2. The daily board charge;

3. The veterinary costs incurred during the impound period;

4. A license fee, if applicable;

5. A transportation fee, if transportation of an impounded animal by specialized equipment is required. "Specialized equipment" is that equipment, other than the usual patrol and operation vehicles of animal control, which is designed for specific purposes such as, but not limited to, livestock trailers and carcass trailers. This fee shall be determined by the Davis County commission at a level which approximates the cost of using the specialized equipment in the particular situation; and

6. Any other expenses incurred to impound an animal in accordance with state or local laws, including any reasonable restitution for property damage created by the animal, or that occurs as a result of the impoundment.

B. The Davis County commission, at the recommendation of the director of animal control shall periodically set impound fees and daily board charges for the impounding of animals. Such fees shall take into account the type of animal impounded. (Prior code § 6-20-5(C))

6.20.040 Terms of impoundment--Destruction and disposal of animals.

A. Animals shall be impounded for a minimum of three calendar days before further disposition unless the animal is wearing a license tag or other identification, in which case it shall be held a minimum of five calendar days. Reasonable effort shall be made to notify the owner of any animal wearing a license or other identification during that time. Notice shall be deemed given when sent to the last known address of the listed owner. Any animal voluntarily relinquished to the animal control facility by the owner thereof for destruction or other disposition need not be kept for the minimum holding period before release or other disposition as herein provided.

B. All animals, except those quarantined or confined by court order, or those subject to Section 4-25-4, Utah Code Annotated, which are held longer than the minimum impound period, and all animals voluntarily relinquished to the impound facility, may be destroyed or disposed of as the animal control department director shall direct. Any healthy dog or cat may be sold in compliance with the Davis County animal control adoption policy after payment of all applicable fees. Other small animals, not included as livestock, may also be sold as determined by the director.

C. At the discretion of the animal control department director, any licensed animal impounded and having or suspected of having serious physical injury or contagious disease, or otherwise requiring medical attention, may be released to the care of a veterinarian with or without the consent of the owner.

D. When, in the judgment of the animal control department director, it is determined that an animal should be destroyed for humane reasons or to protect the public from imminent danger to persons or property, such animal may be destroyed without regard to any time limitation otherwise established in this title, and without court order.

E. The animal control department director or any of his or her agents may destroy an animal upon request of the owner without transporting the animal to county facilities. An appropriate fee shall be charged the animal owner for the destruction of the animal and any subsequent disposal of its carcass by the animal control department. (Prior code § 6-20-5(D))

6.20.050 Declaration and disposal of vicious animals.

A. If the animal control department director, his or her assistants, or authorized agents determine, as a result of witnessing an incident, that an animal is potentially dangerous or dangerous, and find that the animal is in violation of such restrictions as the department deems necessary for the safety of persons and/or animals in the community, the department may declare the animal to be a vicious animal. The animal control department, including any officers or agents thereof, are authorized to immediately take possession of the vicious animal and place the animal in a proper quarantine facility.

The department may thereafter destroy the animal in an expeditious and humane manner if the owner or custodian after having received notice of such, fails to make a request in writing to the animal control department director to delay such action.

B. A proper holding period for any vicious animal shall be five working days.

In the event the owner or custodian of the vicious animal fails to request in writing a formal hearing within the five-day holding period, the animal control department is authorized to destroy the vicious animal in a humane manner. This holding period shall be extended to meet state and local quarantine regulations for any animal needing to be evaluated for rabies.

C. Any owner or custodian who files a written request shall be afforded a hearing before an independent board. This board shall be selected by the animal control department and may include a representative from the city wherein the vicious animal resides, a representative from a local humane organization other than the animal control department, and another person randomly selected. It shall be the responsibility of this board to determine whether the animal should be returned to its owner or custodian or be destroyed.

D. At any hearing under this section, the animal control officer who declared the animal a vicious animal shall appear and testify under oath regarding the facts which led to the required findings. The animal control officer shall be subject to cross examination of the animal owner, custodian or his or her authorized representative.

E. The animal control officer may also present any additional evidence or sworn testimony supporting his or her decision.

The owner or custodian of the animal may likewise present evidence or sworn testimony in support of his or her position.

This hearing shall be informal, but will be recorded.

F. The animal control department director shall not order the destruction of the allegedly vicious animal until a decision is rendered, and the animal control department is notified of the decision in writing by the hearing board. (Prior code § 6-20-5(E))

Chapter 6.24 RABIES CONTROL

Sections:

6.24.010 Animal rabies vaccination requirements.

All dogs, cats or other animals susceptible to rabies for which a federally approved vaccine is available shall be vaccinated at six months of age by a licensed veterinarian or rabies clinic. Every dog shall be revaccinated every twenty-four (24) months and every cat revaccinated every twelve (12) months thereafter. Any unvaccinated dog or cat over six months of age adopted or brought into the jurisdiction must likewise be vaccinated initially. This vaccination protection shall be maintained thereafter. (Prior code § 6-20-6(A))

6.24.020 Exception for transient animals.

The provisions of this chapter with respect to vaccination shall not apply to any animal owned by a person remaining within the city for less than thirty (30) days.

However, such animals shall be kept under strict supervision of their owners. It is unlawful to bring any animal into the city which does not comply with the animal health laws and import regulations. (Prior code § 6-20-6(B))

6.24.030 Vaccination certification and tags.

A. It shall be the duty of each veterinarian, when vaccinating any animal for rabies, to complete a certificate of rabies vaccination, in duplicate, which shall include at least the following information:

1. The owner's name and address;

2. A description of the animal;

3. The date of vaccination;

4. A rabies vaccination tag number;

5. The type of vaccine administered;

and

6. The manufacturer's serial number of vaccine.

B. A copy of this certificate shall be distributed to the owner of the animal, and the original shall be retained by the issuing veterinarian. The veterinarian and the owner shall retain their copies of the certificate for the interval between vaccinations specified in this chapter.

C. A metal or durable plastic rabies vaccination tag, serially numbered, shall be securely attached to the collar or harness of the animal. An animal not wearing such a tag shall be deemed to be unvaccinated and may be impounded and dealt with pursuant to this title. (Prior code § 6-20-6(C))

6.24.040 Impoundment of animals without valid vaccination tags.

A. Any vaccinated animal impounded because it lacked a rabies vaccination tag may be reclaimed by its owner by furnishing proof of rabies vaccination and paying all impound fees prior to release.

B. An animal owner may reclaim the animal prior to its disposal by paying all impound fees and by obtaining a rabies vaccination within seventy-two (72) hours of the animal's release.

C. Any animal not reclaimed within the prescribed period of time shall be disposed of pursuant to the provisions of this title. (Prior code § 6-20-6(D))

6.24.050 Rabid animal reports.

Any person having knowledge of the whereabouts of an animal known to have been exposed to or suspected of having rabies, or of an animal or person bitten by such a suspect animal, shall notify the animal control department or the Davis County health department or the Utah State Division of Health. (Prior code § 6-20-6(E))

6.24.060 Quarantine and disposition of biting or rabid animals.

A. An animal that has rabies or shows signs of having rabies, and every animal bitten by another animal affected with rabies, or that has been exposed to rabies, shall be reported by the owner as set forth above, and shall immediately be confined in a secure place by the owner. The owner shall turn over the animal to animal control officers upon demand.

B. The owner of any animal of species subject to rabies which has been bitten by another animal known to be capable of harboring the rabies virus, shall surrender the animal to an authorized official upon demand. Any person authorized to enforce this title may enter upon private property to seize the animal, if the owner refuses to surrender the animal.

C. Any animal of a species subject to rabies that bites a person or animal, or is suspected of having rabies, may be seized by the animal control department and quarantined for observation for a period of not less than ten (10) days. The owner of the animal shall bear the cost of this confinement. The animal shelter shall be the normal place for such quarantine, but other arrangements, including confinement by the owner, may be made by the animal control department, if the animal has current rabies vaccinations at the time the bite is inflicted, or if there are other special circumstances justifying an exception. A person who has custody of an animal under quarantine shall immediately notify the department of animal control if the animal shows any signs of sickness or abnormal behavior, or if the animal escapes confinement. It is unlawful for any person who has custody of a quarantined animal to fail or refuse to allow a health or animal control officer to make an inspection or examination of the animal during the period of quarantine. If the animal dies within ten (10) days from the date of the bite, the person having custody shall immediately notify the animal control department in order that the department may immediately remove and deliver the animal's head to the State Health Department. If at the end of the ten (10) day period, an investigating officer of the department of

animal care and control examines the animal and finds no sign of rabies, the animal may be released to the owner or, in the case of a stray, it shall be disposed of as provided in this chapter.

D. Unvaccinated Bitten Animals.

1. In the case of an unvaccinated animal species subject to rabies, which is known to have been bitten by a known rabid animal, such bitten or exposed animal shall be immediately destroyed.

2. If the owner is unwilling to destroy the bitten or exposed animal, the animal shall be immediately isolated and quarantined for six months under veterinary supervision, the cost of such confinement to be paid in advance by the owner. The animal shall be destroyed if the owner does not comply herewith.

E. Vaccinated Bitten Animals.

1. If the bitten or exposed animal is currently vaccinated, as prescribed herein, the animal shall be revaccinated within twenty-four (24) hours and quarantined for a period of thirty (30) days following revaccination.

2. If the animal is not revaccinated within twenty-four (24) hours, the animal shall be isolated and quarantined under veterinary supervision for six months.

3. The animal shall be destroyed if the owner does not comply with subsection (E)(1) and (2) of this section regarding exposure by known rabid animals.

F. Removal of Quarantined Animal. It is unlawful for any person to remove any such animal from the place of quarantine without written permission of the director of animal control. (Prior code § 6-20-6(F))

6.24.070 Bites--Duty to report.

A. Any person having knowledge of any individual or animal having been bitten by an animal of a species subject to rabies shall report the incident immediately to the animal control department.

B. The owner of an animal that bites a person and any person bitten by an animal shall report the bite to the animal control department within twenty-four (24) hours of the bite, regardless of whether or not the biting animal is of a species subject to rabies.

C. A physician or other medical personnel who renders professional treatment to a person bitten by an animal the bite of which might cause rabies, shall report the fact that he or she has rendered professional treatment to the department of animal control within twenty-four (24) hours of his or her first professional attendance.

He or she shall report the name, gender and address of the person bitten as well as the type and location of the bite. If known, he or she shall give the name and address of the owner of the animal that inflicted the bite, and any other facts that may assist the animal control department.

D. Any person treating an animal bitten, injured, or mauled by another animal shall report the incident to the animal control department. The report shall contain the name and address of the owner of the wounded, injured or bitten animal; a description of the animal which caused the injury accompanied by the name and address of the owner; and the location of the incident.

E. Violations of the provisions of this chapter shall be unlawful and a misdemeanor. (Prior code § 6-20-6(G))

Chapter 6.28 CARE AND KEEPING

Sections:

6.28.010 Cruelty to animals.

A person commits cruelty to animals when he or she:

A. Causes one animal or fowl to fight with another;

B. Intentionally or carelessly administers or applies any poisonous or toxic drug or any material injurious to tissues or organs to any animal or livestock, or procures or permits the same to be done, whether the animals be his or her own property or that of another. This provision shall not be interpreted so as to prohibit the use of poisonous substances for the control of vermin in furtherance of public health when such substances are applied in a manner that reasonably prohibits access to other animals;

C. By act or omission causes pain, suffering, terror, torment, injury, mutilation, disease or death to any animal or fowl;

D. Administers, applies, procures or permits the administration or application of any trapping mechanism, other than a live capture trap or exposes such a trapping mechanism to a domestic animal or livestock, with the intent to harm or take the animal whether the animal be his or her own property or that of another. All live capture traps that are set shall be checked and emptied daily. All traps must have the owner's identification permanently affixed to them;

E. Neglects or fails to supply such animal with necessary and adequate exercise, care, rest, food, drink, air, light, space, shelter, protection from the elements, and/or medical care;

F. Raises, trains, purchases or sells any animal or fowl for fighting, or harbors fowl for fighting purposes, which has the comb clipped or the spur altered or who is in possession of an artificial spur;

G. Is present as a spectator at any animal contest wherein one animal or fowl is caused to fight with another, or rents any building, shed, room, yard, ground or premises for the purpose of holding such a contest between animals; or knowingly suffers or permits the use of any building, shed, room, yard, ground or premises belonging to him or her or under his or her control for any of these purposes;

H. Abandons an animal;

I. Performs or causes to be performed any of the following operations:

1. Inhumanely removes any portion of the beak of any bird, domestic or wild

2. Alters the gait or posture of any animal, by surgical, chemical, mechanical or any other means, including soring,

3. Crops or cuts ears or removes claws of any animal, or sterilizes a dog or cat and is not a licensed veterinarian, or

4. Inhumanely docks the tail of an animal or removes an animal's dewclaws;

J. Sells, purchases, owns or has custody of any animals or fowl that have been dyed, painted or otherwise artificially colored;

K. Sells or offers for sale, raffle, prize, premium, or an advertising device any chicks, goslings, ducklings, or other fowl younger than eight weeks of age in quantities of less than six birds to an individual recipient;

L. Offers chicks, ducklings, goslings or other fowl for sale; raffles, offers as a prize, premium or advertising device, or displays chicks, ducklings, goslings or other fowl to the public without providing and operating brooders or other heating devices that may be necessary to maintain the chicks, ducklings, goslings or other fowl in good health, and without keeping adequate food and water available to the birds at all times;

M. Awards live animals, fish or fowl as prizes or inducements;

N. Carries or causes to be carried any animal in a manner harmful to that animal.

Suitable racks, cars, crates or cages in which such animals may stand, move freely, or lie down during transportation, or while awaiting slaughter, must be provided;

O. Leaves any animal confined in a vehicle unattended in excessively hot or cold weather;

P. Continuously drives or works a horse or other animal to a point of observable strain and denies the animal rest periods.

Working animals shall be offered water periodically;

Q. Takes or kills any bird or robs or destroys any nest, eggs or young of any bird in violation of the laws of the state of Utah.

R. Inhumanely hobbles livestock or other animals;

S. Leaves any livestock species used for draught, driving or riding purposes, on the street without protection from the weather and without food and water;

T. Recklessly rides or drives any horse, or other livestock species on any street, highway or avenue within this jurisdiction;

or

U. Induces or encourages an animal to perform through the use of chemical, mechanical, electrical or manual devices in a manner which will cause, or is likely to cause physical injury or unnecessary suffering;

V. Unless otherwise provided by law, cruelty to animals is a Class B misdemeanor. (Ord. 264-00 (part); prior code § 6-20-7(A))

6.28.020 Defenses.

A. It is a defense to prosecution under this chapter that the conduct of the actor towards the animal was by a licensed veterinarian using an accepted veterinary practice or was directly related to experimentation for scientific research; provided, that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved.

B. Any person may kill a dog while it is attacking, chasing or worrying any domestic animal having a commercial value, any species of hoofed protected wildlife, or while attacking domestic fowls. The dog may also be killed while being pursued after such activity.

C. Any dog making a vicious and unprovoked attack on any person, except when the attack is in defense of the person, family or property of the dog's owner, may be killed by any person while it is making such an attack. (Prior code § 6-20-7(B))

6.28.030 Injuries and communicable diseases.

No person shall knowingly harbor or keep any animal with a serious injury, or one that is afflicted with mange, ringworm, distemper, parvo, kennel cough, or any other contagious disease, unless such animal is being given adequate treatment to control or eliminate the disease. (Prior code § 6-20-7(C))

6.28.040 Charge of violation--Seizure of animals.

It shall be the duty of a person filing charges under this chapter to seize or arrange to be seized an animal found in the keeping or custody of a person being charged, and which are being used or will be used as evidence in the case resulting from such charge. The person making the seizure shall cause such animals to be delivered immediately to the animal control department, or in such cases as may be necessary to a veterinarian for treatment. It shall be the duty of that department to humanely hold such animals until further court order regarding their disposal. The perpetrator of any such act shall be responsible for the costs of impound, board, and any medical expenses incurred during the holding period of the animal. (Prior code § 6-20-7(D))

6.28.050 Harboring of animals prohibited--Duty to notify.

It is unlawful for any person to harbor or keep within this jurisdiction any lost or strayed animal. Whenever any animal shall be found which appears to be lost or strayed, it shall be the duty of the finder to notify the Davis County animal shelter within seventy-two (72) hours. The animal control department director may take the animal into protective custody. (Prior code § 6-20-7(E))

6.28.060 Motorist duty to report upon striking an animal.

It shall be the duty of the operator of any motor vehicle upon the streets of this jurisdiction to immediately notify, upon injuring, striking, maiming or running down any domestic animal, the animal's owner, the department of animal control, or the police department. In addition, it shall be the duty of the operator of the motor vehicle to remain with the animal or to obtain a responsible person to remain with the animal until professional assistance arrives.

Emergency vehicles are exempted from the requirements of this section. (Prior code § 6-20-7(F))

6.28.070 Places prohibited to animals.

A. It is unlawful for any person to take or permit any animals, excluding hearing or seeing-eye dogs, whether on a leash or in the arms of their owners, in any establishment or place of business where food or food products are sold or distributed, including but not limited to restaurants, grocery stores, meat markets, and fruit or vegetable stores.

B. Dogs, whether on a leash or not on a leash, shall be completely prohibited from school premises or posted picnic, pond and play areas. This, however, shall not apply to guide dogs in the company of a blind or hearing impaired person, or trained dogs in the presence of their masters for the purpose of public education programs or law enforcement exercises. (Prior code § 6-20-7(G))

Title 7 – Reserved

Title 8 HEALTH AND SAFETY

Chapters:

Chapter 8.04 HEALTH REGULATIONS ADOPTED

Sections:

8.04.010 Adoption of county health regulations.

The city adopts the health regulations established periodically by the Davis County health department and authorizes that department to enforce those regulations within the city. All references in these ordinances to the "health department," or similar references, shall be deemed to be to the Davis County health department. (Prior code § 6-1-1)

Chapter 8.08 GARBAGE COLLECTION AND DISPOSAL

Sections:

8.08.010 Definitions.

As used in this chapter:

"**Container**" or "**approved container**" or "**regulation container**" means the approved ninety (90), three hundred (300), or four hundred (400) gallon containers furnished residential users by the city and constructed of Phillips Marlex, cross-linked, high density polyethylene, known as Roto Mold containers as defined and contained in the Solid Waste Collection Agreement dated December 29, 1989, entered into by the city, or such other container as may be periodically established by the city administrator.

"**Garbage**" means waste from the preparation, handling, storing, cooking or consumption of food and food products.

"**Refuse**" means all waste matter, except garbage, attending or resulting from the occupancy of residences, apartments, hotels or other places of dwelling and from the operation of a business. Refuse shall not be deemed to include industrial waste or waste matter resulting from the construction, demolition or repair of a building or other structure. (Prior code § 6-2-1)

8.08.020 Collection of garbage.

A. The city or its agent shall collect, remove and dispose of all residential garbage. Owners of residential properties, excluding apartment complexes in excess of four units, may not privately contract for their garbage disposal. However, commercial or quasi-public establishments may privately contract for the garbage collection and disposal.

B. Commercial establishments, and public or quasi-public institutions may either dispose of their own garbage or employ an authorized contractor to remove their garbage. To qualify as an authorized contractor, a garbage hauler must receive a city business license and written authorization from the city to collect garbage within the city. Garbage collection must be done in the manner, at such times and in such vehicles as may be approved by periodic resolution of the city council.

C. Nothing in this section shall be construed as eliminating the charge made for municipal garbage service. (Prior code § 6-2-2)

8.08.030 Service charges.

A. All residents within the city shall pay monthly garbage service charges in the amount established periodically by resolution of the city council.

B. If a dwelling unit or a place of business has remained vacant for an entire month, the owner or possessor of the site may make arrangements with the city recorder for no garbage collection charges during the continued vacancy of the premises.

C. The mayor, with the consent of the city council, may excuse needy or elderly persons who are not reasonably capable of paying the monthly charge for residential collection of garbage from the payment of the residential rate for such period of time as may be deemed proper or necessary. (Prior code § 6-2-3)

8.08.040 Method of payment of service charges.

A. The garbage service charges imposed above shall be added to the charge made for water furnished through the water system of the city and shall be billed and collected in the same manner as water service charges are billed and collected.

B. In the event the obligee for water service charges and the obligee for garbage service charges do not coincide, or in the event practical economic and administrative reasons do not make combined billing and collection feasible, in the opinion of the city council, the garbage service charges may be collected with such frequency and in such manner as the city council shall, by regulation, provide. (Prior code § 6-2-4)

8.08.050 Processing of garbage or refuse.

A county health officer may permit the feeding or processing of garbage or refuse upon premises properly equipped and maintained for this purpose. The health officer may grant to any person permission for sorting, baling, and marketing trade waste upon premises properly equipped and maintained. (Prior code § 6-2-5)

8.08.060 Containers.

A. All garbage and refuse to be collected by the city from residential users shall be placed only in approved containers. All other garbage and refuse shall be placed in suitable and sufficient garbage receptacles. These receptacles shall have tight-fitting lids, properly and sufficiently treated water resistant paper bags manufactured specifically for use in garbage and refuse collections, or plastic bags manufactured specifically for use in garbage and refuse collection. Garbage and refuse shall be placed by residential users only in containers issued to them, and use of containers issued to others for garbage disposition is prohibited.

B. Title to containers furnished by the city to residential users, shall be retained by the city and payment for the use thereof shall be rental.

C. Users renting containers furnished by the city, or having custody thereof, shall keep the containers free from destructive or decorative markings; shall maintain the original color thereof; shall keep the inside of the containers clean and free from buildup of fungus or bacteria, or any other type of contaminant that causes odors or facilitates deterioration of the

inside or outside of such container; and shall not deposit any hot or caustic materials therein or otherwise damage or deface such containers.

D. Residential users shall report to the city, or authorized garbage hauler, any damage to or malfunctioning of containers which limits their usefulness for receipt of garbage or refuse. Upon such notification the city may return the container to the supplier for repair or replacement pursuant to the supplier's warranty.

E. Containers lost or missing through no fault of the user thereof shall be replaced by the city without charge, but users shall exercise due care to protect containers against loss through theft or misappropriation.

F. Containers furnished by the city are issued to specific users by number and are nontransferable. Containers shall be returned to the city upon discontinuance of use by a resident. (Prior code § 6-2-6)

8.08.070 Closing of garbage containers required.

Approved containers shall not be overfilled to the point where the lid thereon cannot completely close and cover the contents thereof. Nor shall they be filled to the extent that their contents may be spilled during the process of pickup and dumping into the garbage collection vehicle. All garbage and refuse or market waste not deposited for pickup by the city shall be placed in rain-proof and fly-proof receptacles of the type herein required, and the receptacle shall be tightly closed in such a manner as to prevent offensive odors or flies. (Prior code § 6-2-7)

8.08.080 Time and place of pickup.

A. All garbage and refuse subject to garbage collection by the city shall be placed on the edge of the street next to the driveway on the opposite side thereof from the mailbox, but in no event within ten (10) feet of a mailbox. The wheels of the containers shall be placed as close to the curb as reasonably possible, with the hinge thereof to curb side and the lid opening toward the street. When snow or street construction prevent placing of the container against the curb, the container shall be placed not over two feet from the edge of the snow or the construction and in a manner that will not obstruct traffic or unduly impede the snow plowing activities of the city.

B. Containers shall not be placed or permitted to block driveways or through traffic.

C. Until otherwise provided by regulation, garbage and refuse must not be set out upon the street for collection prior to the evening of the day before collection and must be set out prior to five a.m. on the day for collection.

D. All empty containers or garbage receptacles must be removed from the street as soon as possible after being emptied, and in every case, must be removed from the street the same day they are emptied.

Containers or receptacles shall not be permitted to remain on the street longer than may be necessary for the removal of the contents.

E. Those persons physically unable to wheel containers to curb side may arrange with the city recorder for proper pickup.

F. It is unlawful to park a vehicle upon a public street within the city during the hours of garbage pickup within twenty (20) feet of a container or in a manner that interferes with access thereto by the garbage collection vehicle. (Prior code § 6-2-8)

8.08.090 Limitations upon dumping.

Dumping waste and garbage shall be permitted only in such places as are designated by the city council. Dumping shall be subject to such rules and regulations as may be formulated by the city council.

Until changed by ordinance, all processible waste generated within the city shall be delivered to the Davis County solid waste management and energy recovery special service district "burn plant," or to NARD, as the district shall direct. (Prior code § 6-2-9)

Chapter 8.12 NUISANCES

Sections:

8.12.010 General.

It is unlawful for any person whether owner, occupant or agent of the owner or occupant of any property in the city to create, maintain or allow on his or her property any condition(s) which constitutes a nuisance. It is also unlawful for any such person to aid or support in the continuation of any such nuisance in the city. Each and every such person shall be jointly and individually liable under this chapter.

Each person owner, occupant or agent of an owner or occupant has an obligation to know the condition of his or her property and whether or not it is in compliance with this chapter. Therefore, such a person's knowledge of the existence of nuisance conditions on the subject property shall be presumed. (Prior code § 6-15-1)

8.12.020 Declared nuisances.

Any and each of the following conditions shall constitute a declared nuisance:

A. Deleterious or noxious weeds;

B. Wrecked, inoperable or obsolete vehicles;

C. Refuse, debris, garbage or junk;

D. Deleterious objects or structures;

E. Any source of contamination or pollution of water, air, or property as determined by the county health or state environmental departments;

F. Any condition which constitutes a fire hazard, a danger to health, or is a breeding place or habitation for insects, rodents, flies, mosquitoes or other forms of life deleterious to human or animal health or habitations;

G. Accumulations of snow on sidewalks;

H. Snow or other materials deposited on city streets;

I. Anything which unreasonably or unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage, any public or private street, highway, access way, sidewalk, stream, ditch or drainage way;

J. Any obstruction in the sight triangle area on corner lots except as allowed in the zoning ordinances;

K. Any tree or shrub which overhangs or projects into any street, sidewalk, parking strip, or other city property and appears to be dead or liable to fall into any such city property, or which constitutes an obstruction to vision or travel on any city sidewalk, property or street.

L. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved or maintained contrary to the building codes or zoning ordinances of the city, or any use of land, buildings or premises in violation of the city subdivision and zoning ordinances;

M. Any building or structure determined by the county health department to be unfit for human habitation or to present an unreasonable hazard to the health of people residing in the vicinity thereof;

N. Any building or structure determined by the fire department to present an unreasonable fire hazard in the vicinity where it is located;

O. Odors, fumes, gas, smoke, soot or cinders determined to be noxious or unreasonable by an agency of the city, county or state of Utah;

P. Any excessive accumulation of manure, droppings or other waste in any stable, stall, corral, yard or place in which any animal shall be kept, as determined by the city;

Q. Failure to maintain proper premises identification;

R. Any condition in which water is diverted or allowed to flow outside natural drainage ways on to the property of another without his or her written permission;

S. Washing of one's person in or near any public drinking fountain or faucet;

T. Electrical installations for signs, equipment or other facilities which create electrical disturbances that cause interference with normal radio or television reception beyond the immediate vicinity of the electrical installation;

U. Any condition declared a nuisance under the authority of any other portion of the ordinances of the city or the laws of the state of Utah;

V. The governing body of the city may direct the location and regulate the management and construction of packing houses, dairies, tanneries, canneries, renderies, bone factories, slaughterhouses, butcher shops, soap factories, foundries, breweries, distilleries, livery stables and blacksmith shops in and within one mile of the limits of the corporation;

W. The governing body of the city may prohibit any offensive or unwholesome business or establishment in and within one mile of the city limits, compel the owner of any pigsty, privy, bar, corral, sewer or other unwholesome or nauseous house or place to cleanse, abate or remove the same, and may regulate the location thereof.

X. It is unlawful for any person or group to create or permit any noise (regardless of its origin or definition) that may annoy or disturb a reasonable person with normal sensitivities or that injures or endangers the comfort, repose, health, hearing, peace or safety of two or more persons between the hours of ten p.m. and six a.m. (Ord. 268-00 § 1; Ord. 264-00 (part); prior code § 6-15-2)

8.12.030 Exceptions.

A. Weeds Not Constituting a Nuisance or Fire Hazard. Weeds on real property not in close proximity to buildings or not creating a nuisance or fire hazard may be exempted by the inspector, upon advice and concurrence of the fire marshal, from the weed control requirements of this title. Such properties would include, but not be limited to, areas considered wetlands or in a pristine state and contributing to the habitat of noninjurious animals.

B. Large Lots Requiring Fire Breaks. If the inspector determines that the large size of the property makes the cutting of all weeds impractical, the inspector may issue an order limiting the required cutting of weeds to a firebreak of not less than fifteen (15) feet in width around any structures and around the complete perimeter of the property. In determining such an exception, the inspector shall consider the size of the property, the topography of the property, the proximity of the weeds to

structures on other property, the accessibility to the property by others, any conditions which could contribute to increased fire hazards, and the seriousness of the weed problem.

C. Vehicles Under Repair. Wrecked, inoperable or obsolete vehicles which are owned by the owner or occupant of the property on which they are located and which the owner desires to restore or repair in the immediate future may be exempted from the provisions of this title by obtaining a permit for each such vehicle for a period of six months. Six-month extensions may be obtained provided the requirements stated hereafter are met.

1. Each such permit or extension shall be obtained from the city after giving proof of ownership and filling out an application on a form to be provided which gives sufficient information to readily identify the vehicle and property in question and paying a fee as established by resolution.

2. Extensions may be obtained by meeting the terms of subdivision 1 of this subsection and by submitting to the city a statement indicating an understanding of the circumstances and a document indicating extension approval signed by at least seventy-five (75) percent of the owners or occupants of property within five hundred (500) feet of the applicant's property.

3. Each such vehicle shall remain covered by a tarp or similar item at all times except when actual restoration or repair work is in progress.

4. In the event any part of the vehicle under repair is raised off the ground other than by wheels firmly attached to the vehicle, it shall be supported in such a manner as to assure that it cannot be readily dislodged or fall from such support.

5. A copy of the city permit shall be kept at all times with the vehicle under repair and shall be shown to the inspector upon demand.

6. Each vehicle under repair shall be located only upon a parking surface that meets the city building standards and specifications regarding parking areas.

Failure to comply with the terms of this section shall void any permit granted and shall cause the vehicle under repair to be declared a nuisance. This declaration shall subject the vehicle owner to the penalty and abatement provisions of this title. (Prior code § 6-15-3)

8.12.040 Definitions.

Unless the context requires otherwise, the following definitions shall be used in the interpretation and construction of this code:

"**Abate**" means to put an end to any condition which is considered a violation of this title.

"**Accumulations of manure, droppings or other waste**" means feces, debris or other offensive materials incidental to animal keeping which have not been removed or cared for so as to avoid offense or annoyance to another person.

"**Accumulations of snow on sidewalks**" means all accumulations of snow, sleet, hail or other precipitation impairing safe access and use of sidewalks abutting on any public right of way of the city which has not been removed within twenty-four (24) hours from the termination of the depositing storm. The responsible party shall be any person owning, occupying, having control or charge or being an agent over any building, property, lot or partial lot of land abutting said sidewalks.

"**Deleterious**" means anything injurious to the health, safety or welfare of any persons.

Examples of such objects or structures include burned machinery; buildings and equipment which are obsolete or in disuse; vehicle parts; unsecured vacant structures; inoperable equipment; buildings in a state of general disrepair; objects with sharp, protruding edges; objects supported in such a manner as to be easily dislodged from the support; and fences in a state of disrepair.

"**Deleterious or noxious weeds**" means vegetation that has become a fire hazard; weeds or grasses, unless maintained for agricultural uses, that are not maintained at less than six inches in height; plants specifically listed as noxious weeds by the state of Utah, the county, or the city by amendment hereafter; or vegetation that endangers the public health and safety by creating a fire hazard or insect, rodent or other vermin harborage.

"**Depositing of snow or other materials in the street**" means snow or other material from a business or residence which is deposited in a street or public access way.

The responsible party shall be any person owning, occupying, having control or charge or being an agent over any building, property, lot or partial lot of land abutting said street or access way.

"**Obstructions to vision or travel**" means trees or shrubs which intrude into the sidewalk space or are not trimmed to a minimum clearance of seven feet over sidewalks or thirteen and one-half (13½) feet over roadways; any object which would prohibit the full and safe use of sidewalk space by any person; any object placed in such a location as to unreasonably or dangerously restrict the clear view of roadways by persons using or entering the roadway.

"**Owner**" means any person, who alone or with others:

1. Has legal title to any premises or dwelling, with or without actual possession thereof; or

2. Has charge, care or control of any premises or dwelling, as legal or equitable owner, lessee, or is an agent of the owner or the estate of the owner in any manner.

"**Premises identification**" means numbers or addresses placed on all new and existing buildings so as to be plainly visible and legible from the street or road fronting the property. Identification numbers shall contrast with their background.

"**Refuse, debris, garbage and junk**" means waste materials which are generally unfit for use including spent, useless, worthless or discarded materials; used tires; parts of vehicles; old and unused machinery, appliances or parts thereof; trash; waste plant materials, trimmings; litter; scrap building materials; waste food products; materials not clearly stacked and/or maintained for a specific purpose; or other similar materials.

"**Sight triangle area**" means the area of each lot, a corner of which forms part of an intersection, which must necessarily be clear of obstructions to allow drivers and pedestrians visual access to the intersection and oncoming traffic. The following methods shall be used to determine the sight triangle area of a particular lot or property:

1. Where curbs are installed: that portion of a corner lot lying within a triangular area formed by measuring back along each of the curb lines to a point forty feet from the intersection of the curb lines, and then connecting the two points with a third line.

2. Where no curbs are installed: that portion of a corner lot lying within a triangular area formed by measuring back from the property lines adjacent to the intersecting streets to a point on each property line twenty (20) feet back from the intersection of the property lines and then connecting the two points with a third line.

"**Wrecked, inoperable or obsolete vehicles**" means vehicles with parts taken from them; vehicles designed to be used in demolition driving contests or similar events; vehicles without proper and current registration and license plates which are at least four months past the valid licensing period; vehicles made inoperable due to a collision or other event. (Prior code § 6-15-4)

8.12.050 Enforcement provisions.

A. The city administrator shall have the primary responsibility for carrying out the provisions of this chapter. The administrator may delegate this authority to any other city employee. The administrator shall also

1. Establish procedures, criteria and standards for inspections and enforcement which shall be adopted by the city council by resolution; and

2. Keep records of all nuisance abatement activities.

B. The administrator or duly authorized delegate shall be responsible for inspecting and examining real property within the municipality for the purpose of determining the existence of violations of this chapter.

These persons shall have the authority to enter at reasonable times those premises which exhibit a reasonable cause to believe a violation exists in order to inspect or perform the duties imposed by this chapter.

If the premises are occupied at the time of inspection, the inspectors shall present their credentials to the occupant and shall request entry. If entry is refused, the inspectors shall have recourse to the remedies provided by law to secure entry.

C. In the enforcement of this chapter, inspectors shall have the authority to apply the penalties, civil and criminal procedures, and abatement provisions of this chapter and may call upon the police department for assistance in discharging these duties. (Prior code § 6-15-5)

8.12.060 Abatement notices and abatement by the city.

A. Following receipt of a notice to abate, if any owner or occupant of property described in the notice shall fail to abate any unlawful conditions in accordance with such notice, then the inspector may employ necessary assistance and cause such conditions to be brought into compliance with this chapter by doing any or all of the following at the expense of the municipality.

Such expense will be recovered as outlined in subsection B of this section:

1. Cut, eradicate and remove weeds;

2. Secure any vacant structure(s);

3. Maintain or repair deleterious objects or structure;

4. Remove any deleterious object or structure; or

5. Remove snow from sidewalks or streets when deposited contrary to the provisions of this chapter.

B. After abating the unattended nuisance conditions, the inspector shall prepare an itemized statement of all expenses incurred, including administrative costs, in the removal and destruction of the nuisance and shall mail a copy thereof to the owner or occupant of the property. The notice shall demand payment within twenty (20) days of the date of mailing. This notice shall be deemed delivered when mailed by registered mail addressed to the property owner's last known address.

C. In the event the noticed owner fails to make payment of the amount set forth in the statement to the city treasurer within the prescribed twenty (20) days, the inspector shall either:

1. Refer the matter to the city attorney who may cause suit to be brought in an appropriate court of law; or

2. Refer the matter to the county treasurer to be included in the taxes payable by the property owner, and may attach a lien on the property, as provided hereinafter.

In the event collection of these costs are pursued through the courts, the city may sue for and receive judgment upon all costs, together with reasonable attorney's fees, interest and court costs.

In the event the inspector elects to refer the matter to the tax notice of the property owner, he or she shall make an itemized statement of all expenses incurred, including all additional administrative expenses and all lien transaction expenses, and shall deliver three copies of the statement to the county treasurer within ten (10) days of the failure to pay the costs. The inspector shall request in writing that the county treasurer take such action as provided by law, requesting that the amount payable to the city be included in the tax notices to the property owner and that upon collection of the money it be paid by treasurer to the city.

The inspector shall also cause the same to become a lien upon the lands involved by filing the appropriate papers with the county assessor. (Ord. 264-00 (part): prior code § 6-15-6)

8.12.070 Emergency abatement.

If the inspector should determine that any conditions subject to the provisions of this chapter render life or property in immediate jeopardy, he or she may cause or order such condition to be immediately abated.

Reasonable effort shall be made under the circumstances to contact the owner or occupant of the property affect. However, failure to establish this contact in no way relieves the owner of his or her responsibilities under this chapter. All expenses of emergency abatements shall be reimbursed the city as provided in this chapter. (Prior code § 6-15-7)

8.12.080 Violations--Penalties.

A. Violations of this chapter shall be punishable either as a Class B misdemeanor or civil penalty with a fine up to one thousand dollars ($1,000.00).

B. Only one notification procedure (as established by the city) shall be necessary for continuing violations on the same premises within the same calendar year and shall be deemed sufficient on any lot or parcel of property for the entire season of weed growth during that year.

C. Each day of violation of any provision of this chapter shall constitute a separate violation. (Ord. 264-00 (part); prior code § 6-15-8)

8.12.090 Additional remedies.

In addition to the penalties and abatement procedures outlined above, the inspector may initiate any or all of the following actions: injunctions; mandamus; proceedings to prevent, enjoin, abate or remove; or other such court actions. (Prior code § 6-15-9)

Chapter 8.16 ABANDONED VEHICLES

Sections:

8.16.010 Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter:

"**Abandon**" means to desert, forsake or leave without intending to return.

"**Street**" or "highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

"**Vehicle**" means a machine propelled by power, other than human power, designed to travel along the ground by use of wheels, treads, runners or slides and transport persons or property or pull machinery; and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy and wagon. (Prior code § 6-16-1)

8.16.020 Abandonment of vehicles.

No person shall abandon any vehicle within the city and no person shall leave any vehicle at any place within the city for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned. (Prior code § 6-16-2)

8.16.030 Leaving of wrecked, nonoperating vehicle on street.

No person shall leave any partially dismantled, nonoperating, wrecked or junked vehicle on any street or highway within the city. (Prior code § 6-16-3)

8.16.040 Impounding.

The police chief or his or her agent is authorized to remove or have removed any vehicle left at any place within the city which reasonably appears, to be in violation of this chapter or to be lost, stolen or unclaimed. Such vehicle shall be impounded until lawfully claimed or disposed of in accordance with state law. (Prior code § 6-16-4)

8.16.050 Violations--Penalties.

Any person violating any of the provisions of this chapter shall be deemed guilty of a Class B misdemeanor. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (Prior code § 6-16-5)

Chapter 8.20 FIRE REGULATIONS

Sections:

8.20.010 Right of way.

Any fire truck and movable fire fighting apparatus traveling within the city which provides visual or audible warning to other traffic shall have the right-of-way over all other vehicles of every kind. It is unlawful for the owner or operator of any vehicle to drive or operate the same in head of the fire truck or at a distance less than five hundred (500) feet therefrom, or to follow the same at a distance closer than five hundred (500) feet. (Prior code § 7-7-1)

8.20.020 Emergency blockades.

Whenever a fire shall occur, it shall be lawful for the officer in charge to blockade any street, avenue, alley, sidewalk or other place within the limits of the city, if, in his or her judgment, it is necessary to secure the efficient working of the men, hose, engines or hook and ladder apparatus under his or her command, or to protect the hose from injury. It is unlawful for any person to break through such a blockade. (Prior code § 7-7-2)

8.20.030 Right to enter upon premises.

Fire fighters shall at any time have the right to enter upon any premises for the purpose of investigating, extinguishing or controlling fires; and they may, at any reasonable hour, enter premises for the purpose of inspecting the same. (Prior code § 7-7-3)

8.20.040 Removal of obstructions.

When a fire is in progress, the officer in charge may order the removal or destruction of any building, fence, or any telephone, telegraph or electric light poles or wires, or any other obstruction in order to prevent the progress of the fire, but no officer or fire fighter shall unnecessarily or recklessly destroy or injure any building or other property. (Prior code § 7-7-4)

8.20.050 Use of water.

The officer in charge at a fire shall have the right to use water from any source for the purpose of extinguishing the fire or for saving property in danger of being destroyed by fire. (Prior code § 7-7-5)

8.20.060 Cost recovery for intentional fires.

A. Recovery of Costs. The city shall be entitled to recover the cost of any fire intentionally caused by any person or of any fire caused by the gross negligence of any person, from the person or entity who intentionally caused or whose gross negligence was the cause of any fire occurring within the city.

B. Definitions. As used in this chapter, the following words and phrases shall have the following meanings:

"**Cost**" means the actual costs of the city or its agent, the South Davis fire district, and volunteer personnel, including labor, workmen's compensation benefits, fringe benefits, administrative overhead, equipment use, equipment replacement and repair, equipment operation, materials, disposal, contract labor, and the legal and other collection costs of all said sums.

"**Gross negligence**" means the entire want of care which would raise belief that the act or omission complained of was the result of conscious indifference to the rights and welfare of persons affected by it, or the result of a reckless and wanton disregard for consequences.

"**Intentionally caused fire**" or "fire caused by intentional acts" means any fire caused by the wilful conduct of a person inflicted with design and foresight as distinguished from a fire caused by the negligence of a person. (Prior code § 7-7-8)

8.20.070 Unlawful interference.

It is unlawful for any person to wilfully hinder any officer in the discharge of his or her duty at a fire, or in any manner injure, deface or destroy any engine, hose or other fire apparatus or to interfere with any fire company or person, or to wilfully break or injure any water pipe, or in any way interfere with the water or its source of supply. (Prior code § 7-7-9)

8.20.080 Driving over fire hose.

It is unlawful for the owner or person in charge or control of any motor vehicle or for anyone driving or operating any other type of vehicle to drive the same over any unprotected fire hose when laid down on any street in the city to be used at any fire or alarm of fire, without the consent of the fire department official in command. (Prior code § 7-7-10)

8.20.090 Limits at fire.

The city chief of police, in conjunction with the fire officer in charge, may prescribe the limits in the vicinity of the fire within which no person, except fire fighters and members of the police department, or those admitted by order of the officer in charge, shall be permitted to come. (Prior code § 7-7-11)

8.20.100 Duty of bystanders.

The city chief of police, or officer in charge at the fire, may require the aid of every citizen, inhabitant or bystander in drawing any engine, cart, or other fire apparatus to the fire, and, upon refusal or neglect of any such person to immediately comply with such requirement the offender shall, upon conviction thereof, be liable to a fine not exceeding five hundred dollars ($500.00). All officers authorized to command the aid or assistance of any citizen, inhabitant, or bystander are authorized likewise to arrest such citizen, inhabitant or bystander for refusal to obey any reasonable directions for the extinguishing of fire or the protection of property. (Prior code § 7-7-12)

8.20.110 Parking near fire hydrant.

It is unlawful for the owner or operator of any motor vehicle or the driver of any horse, gas or steam propelled vehicle to stop or park the same within a distance of fifteen (15) feet of any fire hydrant within the city. (Prior code § 7-7-13)

Chapter 8.24 FIREWORKS

Sections:

8.24.010 General provisions.

A. Utah Fireworks Act Implemented. This chapter implements the provisions of the Utah Fireworks Act, as the same is amended periodically.

B. Unlawful Acts. It is unlawful to possess, sell, offer for retail sale, or discharge, any fireworks in any way prohibited by the Utah Fireworks Act or any safety standards which supplement that Act.

If a permit is issued which allows the possession, sale, offering for retail sale or discharge of fireworks, it is unlawful to do the same contrary to the terms of the permit.

C. Lawful Acts. The discharge of Class C common state approved fireworks in accordance with state law is permitted. (Ord. 263-99 (part); prior code § 7-8-1)

8.24.020 Public display permitted when.

The city council may, upon written application and the posting of a suitable bond, grant a permit for the public display of fireworks by religious, fraternal or civic organizations, fair associations, amusement parks, or other organizations, or groups of individuals approved by the city council.

Such display shall be of a character and so located, discharged or fired that it will not create a hazard to property or endanger any person. After such permit shall have been granted, sales, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. (Prior code § 7-8-2)

8.24.030 Application for permit.

All such written applications for permission to operate a public display of fireworks shall set forth:

A. The name of the organization or person sponsoring the display, together with the names, ages and qualifications of persons actually in charge of the firing of the display;

B. The date and time of day at which the display is to be held;

C. The exact location planned for the display;

D. The number and kinds of fireworks to be discharged;

E. The manner and place of storage of fireworks prior to the display;

and

F. Such information as the city administrator may require to ensure compliance with the provisions of this chapter and the safety and welfare of the residents of the city. (Prior code § 7-8-3)

8.24.040 Regulations for public displays.

At any public fireworks display, the following regulations shall apply:

A. The actual point at which the fireworks are to be fired shall be at least two hundred (200) feet from the nearest aboveground telegraph, telephone or electric power pole or line, tree or other overhead obstruction.

B. Spectators shall be restrained behind lines at least one hundred fifty (150) feet from the point at which the fireworks are discharged, and only persons in active charge of the display shall be allowed inside these lines.

C. All fireworks that fire a projectile shall be set up so that the projectile will go into the air as nearly as possible in a vertical direction.

D. Any fireworks that remain unfired after the display is concluded shall be disposed of immediately in a manner suitable for the particular type of fireworks remaining.

E. No fireworks display shall be held during any wind storm in which the wind reaches a velocity of thirty (30) m.p.h. (Prior code § 7-8-4)

8.24.050 Bond.

The city council may require a bond deemed adequate from the permittee in a sum to be established periodically be resolution of the city council. This sum shall be conditioned for the payment of all damages which may be caused either to a person or to property by reason of such permitted display or arising from any acts of the permittee, his or her agents, or employees. Such bond shall run to the city and shall be for the use and benefit of any person injured or the owner of any property damaged. (Prior code § 7-8-5)

Chapter 8.28 HAZARDOUS MATERIALS

Sections:

8.28.010 Definitions.

As used in this chapter, the following words and phrases shall have the following meanings:

"**Hazardous materials emergency**" means a sudden and unexpected release, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other receptacles containing any hazardous material or substance or waste or pollutant or contaminant) of any substance that because of its quantity, concentration, or physical, chemical, or infectious characteristics presents a direct and immediate threat to public safety or the environment and requires immediate action to mitigate the threat.

"**Aggravated fire emergency**" means a fire caused or contributed to by the failure to comply with an order from any State, County, City or local agency, department or official; or occurs as a direct result of a deliberate act in violation of State law or the ordinances or regulations of the City, County or other local agency. Such as:

(a) A fire that constitutes arson or reckless burning as defined by the Utah State Code.

(b) An alarm that results in a fire unit being dispatched, and the person transmitting or causing the transmission of the alarm, knows at the time of said transmission that no fire or fire related emergency exists.

"**Aggravated medical emergency**" means an alarm that results in an emergency medical unit being dispatched, and the person transmitting or causing the transmission of the alarm, knows at the time of said transmission that there are no reasonable grounds for believing that a medical emergency exists.

"**Expenses**" means actual labor costs of government and volunteer personnel, including workers' compensation benefits, fringe benefits, administrative overhead, costs of equipment, costs of equipment operation, cost of materials, and the cost of any contract labor and materials. (Prior code § 6-3-1)

8.28.020 Recovery of expenses.

The city shall be entitled to recover from those persons whose negligent actions cause any hazardous materials emergency all expenses incurred by the city directly associated with a response to a hazardous materials emergency, taken under provisions of this chapter or of Section 53-2-105(3)UCA. The city may also recover all expenses from any other persons or entities who may, under state or federal law or regulations, be held liable in whole or in part for any hazardous materials emergency within the city. (Ord. 264-00 (part): prior code § 6-3-2)

8.28.030 Admission.

The payment of expenses to the city under this chapter does not constitute an admission of liability or negligence in any legal action for damages. (Prior code § 6-3-3)

Title 9 PUBLIC PEACE, MORALS AND WELFARE

Chapters:

Chapter 9.04 GENERAL PROVISIONS

Sections:

9.04.010 West bountiful criminal code.

The provisions of this title shall be known as the "West Bountiful criminal code".

Unless otherwise stated, all violations of this chapter are Class B misdemeanors. (Prior code § 7-1-1)

9.04.020 Jurisdiction of offenses.

A. A person is subject to prosecution in this city for an offense which he or she commits, while either within or outside the city, by his or her own conduct or that of another for which he or she is legally accountable, if:

1. The offense is committed either wholly or partly within the city;

2. The conduct outside the city constitutes an attempt to commit an offense within the city;

3. The conduct outside the city constitutes a conspiracy to commit an offense within the city and an act in furtherance of the conspiracy occurs in this city; or

4. The conduct within the city constitutes an attempt, solicitation or conspiracy to commit in another jurisdiction an offense under this code and such other jurisdiction.

B. An offense is committed partly within this city if either the conduct which is an element of the offense, or the result which is such an element, occurs within this city.

C. An offense which is based on an omission to perform a duty imposed by this code or by other ordinances of the city is committed within the city regardless of the location of the offender at the time of the omission. (Prior code § 7-1-2)

9.04.030 State codes adopted.

The following provisions of the Utah Code are adopted as ordinances of the city.

To the extent the city has the authority to punish violations pursuant to UCA 10-8-84, violations of these provisions shall be of the same classification as provided under state law. The following provisions are adopted by reference:

A. Utah Criminal Code;

B. Utah Code of Criminal Procedure;

C. Utah Uniform Act Regulations Traffic on Highways;

D. Provisions of the Utah Motor Vehicle Act (Chapter la. Title 41 of the Utah Code) is adopted in its entirety;

E. Provisions of the Financial Responsibility of Motor Vehicle Owners and Operators Act (Chapter 12a of Title 41);

F. Provisions addressing Offenses on School Property (Chapter 3 of Title 53A) as follows: Sections 53A-3-501 through 53A-3-504;

G. The Alcoholic Beverage Control Act (Chapter 12 of Title 32A) as follows: Sections 32A-12-101 through 32A-12-506;

H. The Utah Drug Paraphernalia Act (Chapter 37a of Title 58) in its entirety;

I. The Utah Imitation Controlled Substance Act, to the extent the city has the authority to enforce UCA 58-37b-6.

West Bountiful City adopts the provisions set forth in UCA 58-37b-6 regarding controlled substance violations. (Ord. 264-00 (part); prior code § 7-2-1)

Chapter 9.08 OFFENSES BY OR AGAINST PUBLIC OFFICERS AND GOVERNMENT

Sections:

9.08.010 Resisting a law enforcement official.

It is unlawful to wilfully:

A. Resist, obstruct or prevent a person recognized to be a law enforcement official from performing any authorized act or duty, or effecting a lawful arrest or detention of such person or another; or

B. Fail or refuse to comply with any lawful order of a person recognized to be a law enforcement official. (Prior code § 7-1-14)

Chapter 9.12 OFFENSES AGAINST THE PERSON OR PROPERTY

Sections:

9.12.010 Battery.

It is a misdemeanor for any person to unlawfully use force or violence upon the person of another. (Prior code § 7-1-3)

9.12.020 Throwing missiles.

It is unlawful to wilfully or carelessly throw any stone, stick, snowball or any other missile at any person, window, vehicle or other property, or in such a manner as to frighten or annoy any person. (Prior code § 7-1-4)

Chapter 9.16 OFFENSES AGAINST PUBLIC PEACE AND DECENCY

Sections:

9.16.010 Littering.

It is unlawful for any person:

A. To throw, deposit or discard, or to permit to be dropped, thrown, deposited or discarded upon any public road, highway, park, recreation area or other public or private land, or waterway, any glass bottle, glass, nails, tacks, wire, cans, barbed wire, boards, trash or garbage, paper or paper products, or any other substance which would or could mar or impair the scenic aspect or beauty of such land whether under private, state, county, municipal or federal ownership without the permission of the owner, or person having control or custody of the land;

B. Who is distributing handbills, leaflets, etc., to fail to take whatever measures are reasonably necessary to keep such material from littering streets or public or private property;

C. Driving a vehicle to fail to secure any cargo in such a reasonable manner as will prevent the cargo, or any part of it, from littering or spilling upon streets or public or private property;

D. In charge of a construction or demolition site to fail to take whatever measures are reasonably necessary to prevent the accumulation of litter at the site;

E. Operating a trailer park, drive-in restaurant, gasoline station, shopping center, grocery store, tavern, or public parking lot to fail to maintain sufficient litter receptacles on the premises to accommodate the litter that accumulates there; or

F. To throw or otherwise deposit litter from a vehicle upon any street or upon public or private property. (Prior code § 7-1-6)

9.16.020 Handbills.

It is unlawful for any person, directly or indirectly, to place, attach or distribute any printed matter:

A. On any public street, park or other public place, except to such persons who willingly accept it;

B. Upon any premises where signs against trespassing or advertising are posted;

C. Upon any premises where the owner or occupant thereof has verbally or in writing instructed the person not to do so; or

D. Upon any premises which are temporarily or continuously uninhabited or vacant. (Prior code § 7-1-7)

9.16.030 Spitting.

It is unlawful for any person to expectorate or spit saliva or tobacco on the floor of any public building or upon any person. (Prior code § 7-1-10)

9.16.040 False alarms.

A. Any Person is guilty of emergency reporting abuse if he or she:

1. Intentionally refuses to yield or surrender the use of a party line or a public pay telephone to another person upon being informed that the telephone is needed to report a fire or summon police, medical, or other aid in case of emergency, unless the telephone is likewise being used for an emergency call;

2. Asks for or requests the use of a party line or a public pay telephone on the pretext that an emergency exists, knowing that no emergency exists; or

3. Reports an emergency or causes an emergency to be reported to any public, private or volunteer entity whose purpose is to respond to fire, police or medical emergencies, when the actor knows the reported emergency does not exist.

B. A violation of subsection (A)(1) or (2) is a Class C misdemeanor.

C. A violation of subsection (A)(3) is a Class B misdemeanor. (Ord. 264-00 (part): prior code § 7-7-6)

Chapter 9.20 OFFENSES BY OR AGAINST MINORS

Sections:

9.20.010 Children in vehicles.

It is unlawful for any person, having in his or her care or control a child under six years of age, to at any time lock or confine, or suffer to be locked or confined, or left unattended, even though not locked or confined, such child in any automobile, bus, trailer or other vehicle, upon a public street, public property, or in an area open to the public for parking, for a period of time exceeding ten (10) minutes. A child is unattended under this section if the oldest person with the child is under the age of twelve (12) years. (Prior code § 7-1-5)

9.20.020 Allowing minors at taverns.

A. It is unlawful for any person to operate any beer hall, tavern or lounge in the city where beer is kept or sold for consumption on the premises or consumed, without first making and posting in a

conspicuous place a regulation which shall read, "No person under twenty-one (21) years of age permitted in these premises", and enforcing the same.

B. It is unlawful for any person in charge of or employed in such beer hall, tavern or lounge to permit any person under the age of twenty-one (21) years to enter upon or remain in any such premises, or for any person under the age of twenty-one (21) years to enter upon or remain in the premises for any purpose except to make deliveries or carry messages to the proprietor thereof and depart therefrom immediately.

C. The restrictions of this section shall not apply to the presence of minors at restaurants. (Prior code § 7-1-13)

9.20.030 Curfew.

A. Curfew for Minors Under Eighteen.

Except as provided in subsection C of this section, it shall be unlawful for any person under the age of eighteen (18) years to be in or upon any sidewalk, street, alley or public place between the hours of twelve midnight and five a.m. of any day.

B. Parents and Guardians. It is unlawful for any parent, guardian or other person having legal care and custody of any minor, to allow, or permit, or suffer any such minor to go or be in or upon any of the sidewalks, streets, alleys or public places in the county within the times provided in subsection A of this section.

C. Exceptions. The provisions of subsection A of this section shall not apply when any person regulated therein is:

1. Accompanied by an adult having the care and custody of such person;

2. Attending or returning home from a function of any school or church;

3. Attending or returning home from a lawful entertainment, amusement or commercial activity;

4. On an emergency errand or specific business or activity directed by his or her parent, guardian or other adult having custody or care of him or her; or

5. Engaged in legitimate employment which requires his or her presence at the public places during the prohibited hours.

D. Minors Engaged in Employment. No person owning or operating a business, shall permit to be or to remain on the premises where such business is conducted any minor person under the age of eighteen (18) years, between twelve midnight and five a.m., unless in the immediate presence of the parent or other adult person having legal care and custody of the minor, nor shall the owner permit to be or to remain on the premises, between twelve midnight and five a.m., any minor person under eighteen

(18) years of age, unless in the immediate presence of the parent or other adult person having legal care and custody of the minor.

This section, however, shall not apply to any minor who is lawfully employed on the premises.

E. Aiding Violations.

1. It is unlawful for any person to assist, aid, abet or encourage any minor to violate the provisions of this section.

2. It is unlawful for any person to use any influence or otherwise to entice or persuade any minor, under the age of eighteen (18) years, from his or her parents, guardians or other persons having charge or custody of such minor without the consent of such parents, guardians or custodians.

F. Penalty. Each violation of this section shall be a Class C misdemeanor. (Prior code § 7-1-11)

Chapter 9.24 WEAPONS

Sections:

9.24.010 Firearms and weapons.

It is unlawful:

A. To hunt within the city limits of West Bountiful;

B. To discharge any air gun, BB gun, slingshot, crossbow, or similar contrivance within the city limits; or

C. To discharge any firearm within the city, or when the projectile will come to rest or is intended to come to rest within the city limits. This shall not apply, however, to peace officers acting within the scope of their duties, or to those acting in reasonable self-defense, or to patrons of a lawfully operated shooting range. (Prior code § 264-00 (part); prior code § 7-1-8)

9.24.020 Knives.

It is unlawful to sell, offer for sale, or expose for sale any spring-blade, snap-blade or similar-type knife. (Prior code § 7-1-9)

Title 10 VEHICLES AND TRAFFIC

Chapters:

Chapter 10.04 TRAFFIC CODE

Sections:

10.04.010 State code adopted.

The following provisions of the Utah Code are adopted as ordinances of the City.

To the extent the City has the authority to punish violations pursuant to UCA 10-8-84, violations of these provisions shall be of the same classification as provided under state law. The following provisions are adopted by reference:

Utah Traffic Rules and Regulations, Chapter 6, Title 41, UCA. (Ord. 264-00 (part);

10.04.020 Violation of license provisions.

It is unlawful for any person to commit any of the following acts:

A. To display or cause or permit to be displayed or to have in possession any operator's license knowing the same to be fictitious or to have been canceled, revoked, suspended or altered;

B. To lend to, or knowingly permit the use of, by one not entitled thereto, any operator's license issued to the person so lending or permitting the use thereof;

C. To display or to represent as one's own any operator's license not issued to the person so displaying the same;

D. To fail or refuse to surrender to the Motor Vehicle Division upon demand, any operator's license which has been suspended, canceled or revoked as provided by law; or

E. To use a false or fictitious name or give a false or fictitious address in any application for an operator's license, or any renewal or duplicate thereof, or knowingly to make a false statement or knowingly to conceal a material fact or otherwise commit a fraud in any such application.

10.04.030 Unlawful to drive while license denied, suspended, disqualified, or revoked.

Any person whose operator's license has been denied, suspended, disqualified or revoked as provided by law, and who shall operate any motor vehicle upon the streets of this City while such license is denied, suspended, disqualified or revoked, shall be guilty of a Class B misdemeanor.

10.04.040 Requirements to operate commercial motor vehicle.

A. No person shall drive a commercial motor vehicle upon any City street unless such person has been issued and is in immediate possession of:

    1. A commercial driver's license valid for the vehicle he or she is driving; or

    2. A valid commercial driver instruction permit and is accompanied by a person holding a valid commercial driver's license.

B. No person shall drive a commercial motor vehicle while his privilege to drive a commercial vehicle is:

    1. Suspended, revoked or canceled;

    2. Subject to a disqualification; or

    3. Subject to an out-of-service order.

10.04.050 Vehicles to display designation of ownership--Exceptions.

All licensed motor vehicles owned and operated by any town, city, board of education, school district or other district, county, or other governmental subdivision or district, shall have displayed in a conspicuous place on both sides thereof a designation of the ownership of such motor vehicle, and such designation shall be kept

clear and distinct and free from defacement, mutilation, grease and other obscuring matter so that it is plainly visible at all times; provided that this section shall not be construed to include motor vehicles used in investigative work when secrecy is essential or used by a town, city or county police or sheriff's department.

10.04.060 Negligent collision.

It is unlawful to operate a vehicle in an inattentive or negligent manner that will cause or permit the vehicle to collide with any other vehicle, person, object or to leave the roadway in such a manner that the vehicle being operated is either damaged or causes damage to any other vehicle, person, object or property. (Ord. 241-96 (part);

10.04.070 Cutting through corners.

No operator of a motor vehicle, motorcycle or vehicle of any kind, shall drive through any private property, or leave the road with the intent to avoid obedience to any traffic control device, or to cause annoyance or harassment to the property owner or his or her patrons. This law shall not apply to those persons stopping at business establishments to conduct legitimate trade. (Ord. 241-96 (part);

10.04.080 Use of dynamic braking devices prohibited.

A. **Definition.** A "dynamic braking device" (commonly referred to as a jacobs brake, engine brake or compression brake) means a device used primarily on trucks for the conversion of the engine from an internal combustion engine to an air compressor for the purpose of braking without the use of wheel brakes.

B. **Use Prohibited in Residential Areas.** It is unlawful for any person to operate any motor vehicle with a dynamic braking device engaged within or adjacent to the residential areas of West Bountiful City.

   Dynamic braking devices may be engaged in or adjacent to residential areas of West Bountiful only for the purpose to avoid immediate danger due to wheel brake failure.

C. See Section 1.16.010 of this code. (Ord. 241-96 (part)

10.04.090 U-Turns.

It is unlawful to execute a U-turn maneuver (that is, to turn a vehicle proceeding on a street to proceed in the opposite direction on the same street) within three hundred (300) feet of the intersection of 400 North and 800 West Streets, and any place on 400 North Street from the 800 West Street intersection to the eastern City boundary.

Chapter 10.08 LOAD RESTRICTIONS

Sections:

10.08.010 Types of loads allowed on certain streets.

A. It is unlawful for any person to transport, haul, drive, propel or convey, or cause to be transported, hauled, driven, propelled or conveyed on any vehicle or wagon any load or burden containing acids, corrosives, explosives, mopping or roofing tar, road asphalt and cut back, or gasoline, propane, butane, or other highly flammable liquids, materials, or substances over or upon any City street, except the following:

    1. Interstate Highway I-15;

    2. Any street east of Interstate Highway I-15;

    3. 800 West Street from 100 South to the south City limits; and

    4. 1100 West Street from 500 South to the south City limits.

B. The restriction in subsection A of this section shall not apply to trucks or vehicles making deliveries of gasoline or similar motor vehicle fuels to service stations by means of the shortest traveled routes within the City, or of propane, butane or other heating fuels to customers or other users, also by the shortest traveled routes within the City.

10.08.020 Vehicle load weight restrictions.

A. It is unlawful for any person to transport, haul, drive, propel or convey, or cause to be transported, hauled, driven, propelled or conveyed on any vehicle or wagon any load or burden with a gross vehicle and load weight in excess of sixty-five thousand (65,000) pounds over or upon any of the streets within the corporate limits of West Bountiful, except the following:

    1. Interstate Highway I-15;

    2. Any street east of Interstate Highway I-15;

    3. 800 West Street from 100 South to the south City limits;

    4. 1100 West Street from 500 South to the south City limits;

    5. Child Lane (640 West); and

6. Porter Lane (2200 North) east of its intersection with Child Lane.

B. It shall also be unlawful for the owner or lessee of any such motor vehicle or wagon, or for any other person responsible for transporting, hauling, driving, propelling or conveying such loads prohibited by this section, or for the owner of the load so transported to knowingly permit such loads to be conveyed over or upon any public streets or portions of public streets of West Bountiful City, other than those enumerated in subsection A of this section.

10.08.030 Oversize vehicle and/or load restrictions.

A. It is unlawful for any person to transport, haul, drive, propel or convey, or cause to be transported, hauled, driven, propelled or conveyed on any vehicle or wagon any load or burden of a size or weight exceeding the limitations provided by law, or any vehicle or vehicles which are not so constructed or equipped as required by law, and the maximum size and weight of vehicles so specified by the following dimensions without first obtaining an oversize and/or overweight permit and adhering to its restrictions regarding its movement upon City streets, except the following:

1. Interstate Highway I-15;

2. Any street east of Interstate Highway I-15;

3. 800 West Street from 100 South to the south City limits;

4. 1100 West Street from 500 South to the south City limits;

5. Child Lane (640 West); and

6. Porter Lane (2200 North) east of its intersection with Child Lane.

B. No vehicle shall exceed a total outside width, including any load thereon of eight feet, except farm tractors and other implements of husbandry. Highway construction equipment and fire-fighting apparatus shall be exempt from these provisions when used for the purpose of performing a function of maintenance, repair, or fire-fighting within the City.

C. No vehicle unladen or with load shall exceed a height of fourteen (14) feet when moving upon a City street without first obtaining a special permit.

D. No vehicle, or combination of vehicles, with load, excepting fire-fighting apparatus and commercial interstate moving company vehicles, shall exceed a length of forty-five (45) feet extreme overall dimensions, inclusive of front and rear bumpers without first obtaining a special permit from the City.

E. No passenger vehicle shall carry any load beyond the line of the fenders on the left side of such vehicle nor extending more than six inches beyond the line of the fender on the right side thereof.

10.08.040 Hauling garbage upon public streets.

It is unlawful for any person to haul, convey or transport through or upon any public streets any garbage, ashes, market wastes, trade wastes, manure, night soil, loose paper, scrap lumber, excelsior, trees, tree limbs, bush clippings, lawn clippings, house refuse, yard refuse, liquid wastes, or any other materials in open trucks, open trailers, or other conveyances unless completely covered with a heavy tarp, canvass, plastic, cloth, or other material sufficient to secure the load and prevent the same, or any part thereof, from overhanging the sides, or falling from the vehicle or conveyance upon which it is being transported. Each vehicle must be covered with a heavy tarp, canvass, plastic, cloth, or other acceptable material at all times when the vehicle is being used for the collection of, or carrying, transporting, or hauling of garbage, manure, dead animals, refuse, and other materials hereinabove set forth upon the public streets within the City.

Chapter 10.12 STOPPING, STANDING AND PARKING

Sections:

10.12.010 Parallel parking.

No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway, headed in the direction of lawful traffic movement and with the righthand wheels of the vehicle within twelve (12) inches of the right-hand curb or edge of the roadway, or as close as practicable to the right edge of the right shoulder, except as otherwise provided in this chapter. (Ord. 237-94 (part))

10.12.020 Angle parking.

Angle parking shall be permitted only upon those streets or parts of streets which have signs or traffic markings indicating that angle parking is permitted. No person shall park a vehicle other than between such traffic markings or at any angle to the curb or edge of the roadway other than that indicated by such sign or traffic markings. (Ord. 237-94 (part))

10.12.030 Standing or parking vehicles--Restrictions and exceptions.*

Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic-control device, no person shall:

A. Stop, stand or park a vehicle:

1. On the roadway side of any vehicle stopped or parked at the edge or curb of a street,

2. On a sidewalk,

3. Within an intersection,

4. On a crosswalk,

5. Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings,

6. Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic,

7. Upon any bridge or other elevated structure upon a highway or within a highway tunnel,

8. On any railroad tracks,

9. On any controlled-access highway,

10. In the area between roadways of a divided highway, including crossovers,

11. Any place where official traffic control devices prohibit stopping;

B. Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers.

1. In front of a public or private driveway,

2. Within fifteen (15) feet or fire hydrant,

3. Within twenty (20) feet of a crosswalk at an intersection,

4. Within thirty (30) feet upon the approach to any flashing signal, stop sign, yield sign or traffic control signal located at the side of a roadway,

5. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite entrance to any fire station within seventy-five (75) feet of said entrance when properly sign posted,

6. At any place where official traffic control devices prohibit standing;

C. Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers:

1. Within fifty (50) feet of the nearest rail of a railroad crossing,

2. At any place where official traffic control devices prohibit parking,

3. Upon the outside or inside shoulder area of any designated interstate highway unless that action is necessitated by the mechanical failure or malfunction of the vehicle or the physical distress of the driver to an extent that the safety of the driver and others upon the highway would otherwise be impaired.

D. No person shall move a vehicle not lawfully under such person's control into any prohibited area or an unlawful distance from the curb. (Ord. 237-94 (part))

* See Section 41-6-103 UCA 1953

10.12.040 Parking not to obstruct traffic.

No person shall park any vehicle upon any street or alley in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for free movement of vehicular traffic, nor shall any person stop, stand or park a vehicle within any street or alley in such position as to block the driveway entrance to any abutting property. (Ord. 237-94 (part))

10.12.050 Stopping or parking on roadway.

No person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the roadway when it is practical to stop, park or so leave such vehicle off the roadway, but in every event an obstructed width of the highway opposite a standing vehicle shall be left for the free passage of other vehicles and a clear

view of such stopped vehicle shall be available from a distance of two hundred (200) feet in each direction upon such roadway.

This section and Section 10.12.020 shall not apply to the driver of any vehicle which is disabled while on the paved or main traveled portion of a roadway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position. (Ord. 237-94 (part))

10.12.060 Motor vehicle left unattended--Requirements.

No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition and removing the key, placing the transmission in "park" or the gears in "low" setting the brakes thereon; and, when standing upon any perceptible grade, turning the front wheels to the curb or side of the street. (Ord. 237-94 (part))

10.12.070 Parked vehicle--Duty to display lights.

A. Whenever a vehicle is lawfully parked upon a street or roadway during the hours between one-half hour after sunset and one-half hour before sunrise and there is sufficient light to reveal any person or object within a distance of five hundred (500) feet upon such roadway, no lights need be displayed upon such parked vehicle.

B. Whenever is a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between one-half hour after sunset and one-half hour before sunrise and there is not sufficient light to reveal any person or object within a distance of five hundred (500) feet upon such roadway, such vehicle so parked or stopped shall be equipped with one or more lamps meeting the following requirements:

   At least one lamp shall display a red light visible from a distance of five hundred (500) feet to the rear of the vehicle, and the location of the lamp or lamps shall always be such that at least one lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle which is closest to passing traffic.

C. Any lighted headlamps upon a parked vehicle shall be depressed or dimmed. (Ord. 237-94 (part))

10.12.080 Parking for certain purposes prohibited.

No person shall park or operate a vehicle upon any roadway for the principal purpose of:

A. Displaying such vehicle for sale;

B. Greasing or repairing such vehicle, except repairs necessitated by an emergency;

C. Displaying advertising;

D. The sale of foodstuffs or other merchandise in any business district. (Ord. 237-94 (part))

10.12.090 All night parking prohibited.

No person shall park a vehicle on any street, or allow a vehicle to idle or remain thereon between the hours of twelve midnight and seven a.m. on any day during the period from November 15th through April 1st of the following year. (Ord. 237-94 (part))

Notwithstanding the foregoing, but subject to section 10.12.095, overnight holiday street parking shall be allowed two (2) days prior, during, and two (2) days after the Thanksgiving and Christmas Holidays. Additionally, overnight parking of a vehicle on any street shall be allowed on New Year's Eve.

10.12.095 Parking Prohibited for Snow Removal

Notwithstanding the foregoing section 10.12.090, the owner or operator of any vehicle shall move the vehicle off the street when:

A. Snow is visibly falling; or
B. There is a visible amount of snow in the street and the street has not been plowed since the snow fell.

(Ordinance 322-10)

10.12.100 Stopping or parking--Prohibited adjacent to schools, on narrow streets or near hazardous places.

A. The chief of police is authorized to erect signs indicating no parking in any of the following places:

    1. Upon either or both sides of any street adjacent to any school property when such parking would, in his opinion, interfere with traffic or create a hazardous situation;

    2. Upon any street when the width of the roadway does not exceed twenty (20) feet, or upon one side of a street as indicated by such signs when the width of the roadway does not exceed thirty (30) feet.

B. When official signs are erected indicating no parking in any of the places specified in subsection A of this section as authorized herein, no person shall park a vehicle in any such designated place. (Ord. 237-94 (part))

10.12.110 Parking heavy duty vehicles in residential zones regulated.

A. The driver of a motor vehicle having a total gross weight, loaded or unloaded, in excess of fifty thousand (50,000) pounds, or having a total length in excess of twenty-four (24) feet from the most forward point of the vehicle or its load to the most rear point of the vehicle or its load, shall not park the vehicle or allow it to stand upon any City street located within a residential zone for longer than two hours.

B. In determining the total gross weight or total length as provided in subsection A of this section, the length or weight of a trailer connected or attached to or in tandem with the motor vehicle, shall also be included in making such determination. (Ord. 237-94 (part))

10.12.120 Police officer authorized to move vehicle.

A. Whenever any police officer finds a vehicle in violation of any provision of this section, such officer is authorized to move such vehicle, or require the driver or other person in charge of the vehicle to move the same, to a position off the street or roadway.

B. Any police officer is authorized to remove or cause to be removed to a place of safety and unattended vehicle illegally left standing upon any street, roadway, bridge or causeway in such position or under such circumstances as to obstruct the normal movement of traffic.

C. Any police officer is authorized to remove or cause to be removed to the nearest garage or other place of safety any vehicle found upon a street or roadway when:

    1. Report has been made that such vehicle has been stolen or taken without the consent of its owner; or

    2. The person or person in charge of such vehicles are unable to provide for its custody or removal; or

    3. When the person driving or in control of such vehicle is arrested for an alleged offense for which the officer is required by law to take the person arrested before a proper magistrate without unnecessary delay.

10.12.130 Evidence required on parking violation.

The presence of any vehicle in or upon any public street in this City, parked in violation of the City ordinances regulating the parking of vehicles, shall be prima facie evidence that the person in whose name such vehicle is registered as owner, committed or authorized the commission of such violation. (Ord. 237-94 (part))

10.12.140 Violation--Penalty.

All violations to this chapter of the code shall be a Class B misdemeanor with no jury trials allowed and no jail time required.

Title 11 – Reserved

Title 12 STREETS, SIDEWALKS AND PUBLIC PLACES

Chapters:

Chapter 12.04 CONSTRUCTION AND REPAIR

Sections:

12.04.010 Streets and sidewalks constructed by individuals.

It is unlawful for any person, either as owner, agent, contractor or employee, to construct any street or sidewalk in this city unless a permit is first obtained from the city council to do so and unless such street or sidewalk is constructed to lines and grades and specifications as given and established by the city council or unless special permission to deviate from such lines and grades is first obtained from the city council.

All such streets and sidewalks shall be constructed under the supervision of an inspector to be appointed by the City, but the cost of indicating grade and lines shall be borne by the person constructing the street or sidewalk.

12.04.020 Responsibility for repair of certain street improvements.

Whenever curbs, gutters, sidewalks or driveway approaches within this city are in need of repair, as determined by the city engineer, the cost of such repairs shall be borne by and paid as follows:

A. Repairs Required by Act or Omission. Whenever damage has been caused to any curb, gutter, sidewalk or driveway approach, or such improvements are in need of repair as a result of the act or omission of any person, the cost of such repairs shall be payable by such person.

B. Ordinary Repairs. Whenever the curbs, sidewalks or driveway approaches require ordinary repairs, as determined by the city engineer, the cost of such repairs shall be payable by the City.

C. Extraordinary Repairs. Whenever curbs, gutters, sidewalks or driveway approaches require extraordinary repairs, as determined by the city engineer, the landowner abutting the portion of the curbs, gutters, sidewalks or driveway approaches requiring such repairs shall be liable for one-half of the cost of such repairs; provided, however, that if the City, at its option, removes and disposes of the curbs, gutters, sidewalks or driveway approaches requiring repair, the abutting landowner shall be liable for the cost of installation of the new curbs, gutters, sidewalks or driveway approaches.

A levy of assessment may be made by the City upon those portions of the land abutting the sections of curbs, gutters, sidewalks or driveway approaches requiring extraordinary repairs and benefited by the repair thereof, as determined by the city engineer.

D. Definitions. The terms "ordinary repairs" and "extraordinary repairs," as used in this section, are defined as follows:

Ordinary Repairs. When it is not necessary to replace any portion or section of curbs, gutters, sidewalks and driveway approaches in order to bring such improvements to an operational standard, then such repairs shall be deemed ordinary repairs.

Extraordinary Repairs. When it is necessary to replace any portion or section of curbs, gutters, sidewalks and driveway approaches in order to bring such improvements to an operational standard, then such repairs shall be deemed extraordinary repairs.

E. Hearing. Any property owner or other person referred to in this section who shall be aggrieved by any determination of the city engineer made pursuant to the provisions of this section shall be entitled to a hearing thereon in accordance with the provisions of Section 2.60.010.

Chapter 12.08 EXCAVATIONS IN PUBLIC RIGHTS-OF-WAY

Sections:

12.08.050 Barricades necessary.

12.08.010 Permit required.

It is unlawful for any person to make any excavation in any public street or way in the City, or remove any pavement or other material forming any street or improvement thereon without a permit from the city council.

12.08.020 Application and bond.

A. No permit for any street excavation shall be issued until written application therefor has been made to the city council which application shall be signed by the applicant, or his or her agent. This permit shall not be issued unless the application is accompanied by a fee in an amount which shall be established periodically by resolution of the city council. The application shall state the location of the proposed excavation, its nature and extent, the purposes for which the excavation is necessary, the manner in which it shall be accomplished, the means to be employed to permit the unobstructed flow of traffic thereon, and the length of time the excavation will remain.

Excavation permits shall not be issued until the applicant has filed with the city council a bond of indemnity to the City, with sureties approved by the city council as hereinafter provided. In lieu of a bond, the applicant may deposit with the City a sum which shall be set periodically by resolution of the city council, provided the excavation does not exceed ten (10) feet in length in any direction in the street or way. The bond shall contain, and the deposit of money shall be subject to, the condition that the person responsible for making the excavation will:

1. Hold a valid license from the state of Utah, and maintain adequate public liability insurance;

2. Verify with the public works director or the utility companies concerned the location of all underground facilities which might be located within the limits of the excavation and will be responsible for, and will repair or pay for any damage to such underground facilities;

3. Not close any street or way or prevent or restrict the flow of traffic thereon without first obtaining permission therefor from the city council;

4. Erect and maintain about the excavation, during the excavation and until the street is restored to its normal condition, sufficient guards, signals, barricades and lights to prevent accidents;

5. As soon as reasonably possible after the completion of the work, restore the street to the same condition in which it existed prior to the excavation, including the removal of rocks, dirt, rubbish and all other materials from the street which exist as a result of excavation, and be responsible for maintaining the surface of the excavated area from settlement and deterioration for a period of three years after first restoration;

6. In case the excavation is through asphalt or cement or beneath stone blocks, make the cut perpendicular at the sides and ends from the surface for the full length and width of all excavations to the necessary depth;

7. Notify the public works director at least four hours prior to backfilling, indicating the time the trench is to be backfilled;

8. Not permit any excavation to remain open in any street for a period of more than ten (10) days, or such lesser period as may be provided for in the permit;

9. Be responsible for maintaining and guarding the excavation area for a period of three years after first restoration;

10. Backfill according to standard specifications and use only material for that purpose which shall be properly tamped or use a sufficient quantity of water to properly settle the materials to the satisfaction of the public works director. In the event the material removed from the excavation cannot, in the judgment of the public works direction, be properly compacted, the excavation shall be compacted with sand or other porous material as directed by the public works director;

11. In cases when excavation is done by machine, excavate with either a trenching machine or pull shovel which does not have cleats, spikes or other protruding parts which will come in contact with the street surface when such machine is in motion, and which will not have a cutting width of not to exceed forty (40) inches;

12. Hold the City harmless from any and all claims, liability, demands or damages for any and all injury to persons or property arising in any manner out of or by reason of such excavation; and

13. Respond to the City in damages for failure to conform to any or all of the requirements set forth in this section.

It is the intent of this title to hold franchised utilities responsible for all excavations, backfilling and paving. To this end all such work, whether done by a private or public entity, shall be commenced only pursuant to the issuance of an excavation permit as set forth in these ordinances. Curbs and fills shall be constructed according to standards established by the City and shall be subject to City approval, evidenced by a release of responsibility signed by the city engineer after approval by the city council. (Ord. 329-11)

B. The bond required herein shall be a corporate surety bond issued by a licensed surety in an amount sufficient to guarantee restoration of such street or way to its original condition, as determined by the city council. However, any person operating in or using any of the streets or ways under a franchise, or any person who, in the pursuit of his or her regular calling, has frequent occasion to open or make excavations in the public streets or ways, may file a corporate surety bond in a sum established periodically by resolution of the city council. This bond, once filed, shall cover all excavations made for a period of one year from date of filing. The city council may waive the requirement of a bond when the applicant is a municipal corporation or political subdivision. These bond proceeds shall be refunded to the applicant upon satisfactory compliance with the conditions upon which such deposit was made as herein above provided.

12.08.030 Council may refuse or revoke permit.

Failure on the part of any person to comply with any of the conditions of the bond provided for in Section 12.08.020, or any of the provisions of this chapter shall be sufficient reason for the city council to refuse or to revoke a permit to excavate in the streets or ways of the City. If any of the provisions of the bond, or of this chapter, are violated or not observed, the city council may do all things necessary or proper to repair such street or way at the expense of the person making the excavation.

12.08.040 Street to be restored to normal condition.

It is unlawful for any person having made an excavation in any street or way, whether under permit or franchise, to fail, neglect or refuse for a period of five days after notice from the city council, or its authorized representative, to restore the street or way to its normal condition.

12.08.050 Barricades necessary.

It is unlawful for any person by or for whom any excavation is made in a public street or way for any purpose to fail to cause a barricade, rail or other sufficient fence to be placed so as to enclose such excavation, together with the dirt, gravel or other material thrown therefrom, and to maintain such barricade during the whole time for which such excavation continues. It is unlawful for any person to fail to have lighted lanterns or some other proper and sufficient lights affixed to parts of such barricade, or in some proper manner over or near the excavation, and over and near the dirt, gravel or other material taken therefrom. These lights shall be illuminated from twilight to dawn of every night during the period of excavation. Furthermore, it is unlawful for any person maliciously or wantonly and without legal excuse, to extinguish, remove or diminish the lights or to tear down or remove any rail, fence or barricade fixed in accordance with this section.

Chapter 12.12 OBSTRUCTIONS

Sections:

12.12.010 Building line on street.

No building or house erected on the boundary or edge of any street, lane, avenue or alley of this city shall extend further into the street than the outer edge of the lot or the inner edge of the sidewalk.

12.12.020 Location of poles on streets.

All sign posts, telegraph, telephone or light poles, awnings, porch posts or other obstructions shall be set at the outer edge of the sidewalk at such places as the chief of police, with the approval of the City council, may designate. No pole stubs shall be set on any telegraph, telephone, or light poles which are located on a public street or sidewalk within the City.

12.12.030 Height of awnings, porches and signs.

All awnings, porch tops, and sign boards crossing or extending over any sidewalk in this city must be at least eight feet above the grade of the sidewalk, unless otherwise provided in the zoning ordinance.

Chapter 12.16 USE OF STREETS AND SIDEWALKS

Sections:

12.16.010 General provisions.

A. It is unlawful for any person to destroy, deface or in any manner injure any public street or sidewalk.

B. It is unlawful for any person intentionally or carelessly to throw or put into any street, gutter, sidewalk, or public place any item which shall render such street unsafe or unsightly or shall interfere with travel thereon.

C. It is unlawful to obstruct the sidewalks, crosswalks, or streets of this city, or to place any earth or substance on these locations, or to permit any gate or other obstruction to swing across any sidewalk to the annoyance of another person. However, the chief of police may grant special permission to place obstructions on sidewalks or streets when necessary for improving the same or to provide protection when buildings are in the course of construction.

D. It is unlawful for any person to drag, tow or otherwise convey upon the streets of the City any stumps, trees, junk, machinery, or other matter which injures the street or which constitutes more than ordinary wear upon the street.

12.16.020 Depositing material on streets and sidewalks prohibited.

A. It is unlawful for any person intentionally or carelessly to throw, cast, put onto, drop or permit to fall from a vehicle and remain in any street, gutter, sidewalk or public place any stones, gravel, sand, coal, dirt, manure, garbage, leaves, lawn or hedge clippings or rubbish of any kind, or any other substance which shall render such highway or sidewalk unsightly or shall interfere with travel thereon.

B. Exception. Covering of concrete with dirt to prevent breakage while traversing over with heavy equipment during construction and/or improvement projects on adjoining property is allowed.

C. Penalty for violation of this section: see Section 1.16.030. (Ord. 240-96)

Chapter 12.20 SHADE TREES

Sections:

12.20.010 Short title.

This chapter shall be known and may be cited as the shade tree ordinance of West Bountiful City. (Ord. 235-93 § 1)

12.20.020 Definitions.

For the purpose of this chapter the following terms, phrases, words and their deviations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The words "shall" is always mandatory and not merely directory.

"**City**" is the City of West Bountiful.

"**Person**" is any person, firm, partnership, association, corporation, company or organization of any kind.

"**Shade tree**" or "**tree**" is a tree in any public place, except where otherwise indicated.

"**Tree planting strip**" means that area between the curb or place where the curb should be and the property line; or an area inside the property line where an easement is given for the purpose of permitting the planting of shade trees; also referred to as the "park strip." (Ord. 235-93 § 2)

12.20.030 Authority of public works department.

A. The public works department shall execute and enforce the provisions of this ordinance and all other plans, standards, and specifications for the regulation of matters pertaining to shade trees that may be officially adopted by the city council.

B. All problems related to and requests for action on trees and shrubs on any city property shall be referred to the public works department.

C. Wherein it is determined that a tree or shrub located on private property overhangs or projects into city property, or constitutes an obstruction to vision or travel on any city sidewalk, property or street, the public works is authorized to remove the offending trees or branches or shrubs and to assess the actual costs against the property owner. However, except in case of manifest public danger and immediate necessity, no such trees or shrubs standing on any private property shall be cut down or removed unless ten (10) days notice shall be given to the owner or occupant of the property. If the owner or occupant of such property shall, within seven days after receiving such notice file with the city recorder his or her objections, in writing, to such removal, such tree or shrub shall not be cut down or removed unless the city council shall give such owner or occupant a reasonable opportunity to be heard in support of such objection, and shall thereafter approve in writing the removal of the same, if the objection is not sustained.

D. Where an emergency exists with regards to a shade tree, the public works department shall take such prompt and immediate action as is reasonably necessary to remedy the emergency condition. An emergency condition is such that renders life or property in immediate jeopardy.

E. The public works department is given authority to trim or prune or to remove any tree shrub which has been planted or is maintained, on or within public property, in violation of any City ordinance, without serving notice upon the owner of the abutting property. (Ord. 235-93 § 3)

12.20.040 City Arborist.

There is established a position of City Arborist which shall be a member of the public works department, as selected for the position by the mayor, or any other individual selected for such position by the mayor.

A. The duties of the City Arborist are advisory and related to trees and shrubs now planted and growing or hereafter to be planted and grown upon any and all public properties and places in the City, and shall include duties as assigned from time to time by the city council as well as the following:

1. Assist the city council in making recommendations on public relations matters, including but not limited to, programs such as arbor day, clean-up days, home beautification contests, and other tree related city activities;

2. Prepare for approval by the city council, an official tree planting list;

3. Prepare a draft master tree plan for submission to the planning commission for adding to the general plan in the manner prescribed by state law;

4. Make recommendations on arboricultural specifications and standards of practices for all trees and shrubs on city property, and recommend standards and specifications for the work of any person or organization engaged in the business of working on trees within the City;

5. Make recommendations on the use of grounds immediately surrounding trees and shrubs on public property, as far as it is necessary to assure the proper growth, care and protection of the trees and shrubs;

6. Make recommendations on the care and treatment of trees and shrubbery, including planting, maintenance, pruning, spraying, and removal of the trees and shrubs in conformity to the master tree plan;

7. Make recommendations on qualifications for persons desiring to become licensed to engage in the business of trimming, pruning, crown reduction, treating or removing trees and shrubs in the City;

8. Make recommendations on the identification, marking and preservation of historic or notable trees;

9. Make recommendations on the removal of "weed trees" on private property posing a hazard or nuisance to the City. (Ord. 235-93 § 4, amended 16 Jan 2007)

12.20.050 Procedure in the handling of tree problems.

A. Tree problems shall be referred to the public works department for investigation and determination of required action under the policies stated in this chapter or which may otherwise be adopted by the city council.

B. In cases where complete removal and/or replacement or planting are involved, the following shall apply:

1. If upon determining that the abutting property owner or occupant, the person making the request for action, the public works department, and such other parties as are known to have an interest in the problem are in agreement to the action to be taken and upon whom the responsibility for paying for the action should fall, the City may direct the necessary action, or may inform other persons or agencies of the action recommended. Such decisions and actions shall conform to any specific policies stated in this chapter or which may otherwise be adopted by the city council.

2. If there is a conflict or disagreement between interested parties as to the action that should be taken and or who should bear the responsibility of paying for such action, the public works department shall make a written report and shall then refer the matter to the City Arborist who shall arrive at an appropriate recommendation for action. All involved parties shall be notified of the decision. If any of the parties then wishes to appeal the decision to the city council, such appeal shall be made in writing to the city recorder within three working day of the date of notification. No action on the problem shall be taken pending the outcome of the appeal.

The city council shall hear all parties who wish to be heard on the matter and shall make a decision which shall be final. The city council shall notify all involved parties and shall order the public works department to take such actions as are necessary to execute the decision. (Ord. 235-93 § 5, amended 16 Jan 2007)

12.20.060 Consideration of trees in public projects.

Plan for all lighting, sewer, irrigation, water, street and other public works projects shall be considered with the reference to their effect upon trees on public property prior to the beginning to of work on such projects. Every effort shall be made to preserve desirable trees and to minimize any damage to trees and shrubs on all projects. (Ord. 235-93 § 7)

12.20.070 Public trees.

A. The abutting property owner shall be responsible for relieving the following conditions caused by trees on city tree planting strips, public parks and other public properties:

1. Removal of dead trees or limbs, or trees or limbs that, as determined by the City, appear to be a hazard or liable to fall (Ord. 329-11);

2. Removal of trees or limbs from trees or shrubs that have actually fallen across a street, sidewalk or upon city property;

3. Removal of diseased or dying trees that are beyond reclamation;

4. Removal of trees or roots directly in the way of street widening projects, or sidewalk and curb repairs and/or installation;

5. Removal of trees, branches or roots that are found by the City to be a nuisance such as by constituting obstruction to water or sewage lines, irrigation ditches or street lighting or public signs, that impair good visibility at street intersections, are obstructions to vision or travel on public property, or that are too closely space;

6. Pruning, crown reduction and treatment.

B. Property owners or occupants shall be responsible for watering, minor maintenance pruning and treatment of all trees and shrubs on the city tree planting strips adjacent to their property. This shall not include city parks and recreation facilities and other types of public property. (Ord. 235-93 § 8)

C. The abutting property owner shall assume financial responsibility for replanting city tree planting strips with approved species. (Ord. 329-11)

12.20.080 Official tree planting list.

After receiving a recommendation from the City Arborist, the city council shall adopt an official tree planting list which shall designate which species may be planted in city tree planting strips and which trees are recommended for other public places.

Copies of the official tree planting list shall be kept in the city recorder's office for distribution to the public.

The City Arborist may from time to time recommend to the city council amendments to the official tree planting list. (Ord. 235-93 § 11, amended 16 Jan 2007)

Chapter 12.24 CITY PARKS

Sections:

12.24.010 Restrictions on use.

A. Until and unless changed by resolution of the city council, the parks of the City shall be kept open for public use from six a.m. to ten thirty p.m. seven days each week. Anyone desiring to use any of the city's parks beyond the normal hours of use may make application to the City, setting forth the use for which the park is desired, the person responsible for the use, the approximate number of people involved, and the hours during which said use is contemplated, and upon written authorization therefore, may use the same within the limits set forth in the permission granted by the City.

B. It is unlawful to use a city park or to be or remain therein beyond the limits herein set forth, or to use or permit the use of snowmobiles or other off-highway type vehicles or horses therein, or to use the park for golfing, putting or driving golf balls. It shall also be unlawful to park or drive or permit others to park or drive automobiles or other motor vehicles within any city park in other than designated-parking or driving areas, or to allow motor vehicles to remain in said prohibited areas. It shall also be unlawful for the owner, or any person keeping, harboring, maintaining or in control of a dog, to permit the same to enter into or remain in a city park.

Chapter 12.24 LANDSCAPE REQUIREMENTS

Sections:

12.24.010 Purpose.

The landscaping requirements specified in this chapter are intended to foster aesthetically pleasing development which will protect and preserve the appearance, character, health, safety and general welfare of the public. These regulations are intended to increase the compatibility of adjacent uses and, in doing so, minimize the harmful impacts of noise, dust, debris, heat, wind and air; lessen the problems of motor vehicle

light glare or other artificial light intrusions; reduce the level of carbon dioxide and return pure oxygen to the atmosphere; provide shade and lessen energy consumption; buffer and screen undesirable uses and appearances from adjacent properties; eliminate the blighted appearance of parking lots; and act as a natural drainage system and lessen storm water drainage problems. (Ord. 267-00 § 1)

12.24.020 Enforcement of landscape requirements.

Wherever the submission and approval of a landscape plan is required by this code, such landscape plan shall be an integral part of any application for a building permit, conditional use permit or subdivision approval. No permit shall be issued without City approval of a landscape plan as required in this chapter. The requirements of this chapter may be modified by the planning commission, on a case-by-case basis, in response to input from the city police department regarding the effects of required landscaping on crime prevention. (Ord. 267-00 § 2)

12.24.030 Landscape plan.

A. The requirements of this chapter shall be considered a minimum, except in those cases where otherwise noted (i.e. specified ranges or specific numbers). The following code sections make reference to landscape plans and requirements: 17.20.090 Agricultural District, 17.28.080(B) Neighborhood Commercial, 17.32.080(B) General Commercial, 17.36.080(B) Light Industrial, 17.40.080(B) General Industrial, 17.52.060(C) Off-street Parking, 17.72.030(E) and (H), Mobile Home Parks, 15.12.040(D) Movement of Buildings and 17.76.030(B), Swimming Pools.

B. A landscape plan shall be drawn in conformance with the requirements specified in this chapter. Landscape plans are subject to approval by the planning commission.

C. All landscape plans submitted for approval shall contain the following information:

1. The location and dimensions of all existing and proposed structures, property lines, easements, parking lots and drives, roadways and rights-of-way, sidewalks, bike paths, ground signs, refuse disposal and recycling areas, bicycle parking, fences, freestanding electrical equipment, tot lots and other recreational facilities, and other freestanding structural features as determined necessary by the planning commission;

2. The location, quantity, size and name, both botanical and common names, of all proposed trees, shrubs and ground cover plants;

3. The location, size and common names of all existing plants including trees and other plants in the parkway, and indicating plants to be retained and removed;

4. Water irrigation system, with efficiency controls and design;

5. Summary data indicating:

a. The area of the site in acres or square feet;

b. The area of landscape improvements in square feet and percent;

c. The area of domestic turf grass in square feet and percent;

d. The area containing drought-tolerant plant species, in square feet;

6. Landscape Distribution.

a. The minimum landscape width for any parcel fronting onto 500 West Street or 500 South Street shall be eight feet and shall extend across the entire frontage, excluding drive approaches;

b. A corridor of trees shall be placed along all properties abutting Interstate Highway 15 (I-15). The spacing of the trees shall be determined by the type selected and as specified in this chapter. Clustering of trees shall be allowed, provided the net number of trees equals or exceeds the spacing requirement;

c. A corridor of trees shall be placed in drainage swales. (Ord. 267-00 § 3)

12.24.040 Landscape plan materials--Selection.

Plants used in conformance with the provisions of this chapter shall be of good quality, and capable of withstanding the extremes of individual site micro-climates.

Size and density of plants, both at the time of planting and at maturity, are additional criteria which shall be considered by the planning commission when approving the landscape plan. The use of drought-tolerant plants is preferred when appropriate to the site conditions.

A. Tree Species to be Planted. The following list constitutes the recommended species for trees to be planted on land in the park-strip areas, drainage swales or abutting property lines on either side of all streets within the City:

Large Trees* as follows: Medium Small

Hackberry, Thornless Honey Locust, Bur Oak, Red Oak, Norway Maple, Red maple, Littleleaf Linden, Crimena Linden, Japanese Zelkova, Ginko, Chinese Pistache

Medium Trees as follows:

Golden Raintree, Japanese Pagoda, Flowering Plum, Flowing Pear

Small Trees as follows:

Lavelle Hawthorne, English Hawthorne, Washington Hawthorne, Dolgo Crabapple, Dorothea Crabapple, Japanese Flowering Crabapple, Hopo Crabapple, Bechtel's Crabapple, Radiant Crabapple, Snow Drift Crabapple, Rebud Crabapple

* (not allowed in park strip or drainage swales; refer to 12.20.080 for park strip tree requirements)

B. Spacing. The spacing of street trees will be in accordance with the three species size classes listed above, and no trees may be planted closer together than the following: small trees, thirty (30) feet; medium trees, forty (40) feet; and large trees, fifty (50) feet; except in special plant systems designed or approved by a landscape architect.

C. Shrubs, Less Than Four Feet Mature Height. The following list constitutes the recommended species for shrubs to be planted in landscape areas within the City. In most instances, shrubbery will not be allowed in park strips, drainage swales or other locations within the street right-of-way:

Japanese red leaf barberry

Crimson pygmy barberry

Arnold dwarf forsythia

Emerald mound Honeysuckle

Snowmound spirea

D. Ground Cover / Turf Grass. The following list constitutes the recommended species for ground cover and turf grass to be planted on land in the park-strip area, drainage swales or abutting property lines on either side of all streets within the City:

Ground ivy

Matrimony vine

Snow-in-summer

Maiden Pink

Myrtle periwinkle

NOTE: spreading ground cover is not allowed in drainage swale areas.

Kentucky bluegrass - common blend

E. Prohibited Materials in Park Strips and Drainage Swales.

1. Rocks and gravel are hazardous to pedestrians and bicyclists, are difficult to walk across, may be kicked into streets or onto walking paths, and clog drainage systems;

2. Asphalt is inconsistent with the City's rural design;

3. Concrete may be installed in park strip areas with concrete sidewalks and concrete curbs and gutters, but are generally discouraged;

4. Thorn-bearing plants are hazardous to pedestrians, bicyclists and animals and are difficult to walk through or past. Roses may be acceptable if approved by the planning commission;

5. Ground cover or shrubs are prohibited from the rural street drainage swale areas. Ground cover less than eighteen (18) inches in height may be installed in the park strip area providing adequate spacing is provided for pedestrian access and as approved by the planning commission. (Ord. 267-00 § 4)

12.24.050 Landscape plan materials--Installation.

All landscaping shall be installed in accordance with the current planting procedures established by the American Association of Nurserymen. The installation of all plants required by this chapter may be delayed until the next optimal planting season, as determined by the planning commission. (Ord. 267-00 § 5)

12.24.060 Landscape plan materials--Maintenance.

A. Responsibility. The owner of the premises shall be responsible for the maintenance, repair and replacement of all landscaping materials and barriers, including refuse disposal areas, as may be required by the provisions of this chapter.

B. Landscaping Materials. All landscaping materials shall be maintained in good condition so as to present a healthy, neat and orderly appearance, and plants not in this condition shall be replaced when necessary and shall be kept free of refuse and debris.

C. Irrigation Systems. Irrigation systems shall be maintained in good operating condition to promote the conservation of water while providing adequate coverage for the plants.

D. All landscape improvements installed within the City's right-of-way are placed by permission of the City but the City shall not be responsible for the maintenance and upkeep of said improvements.

E. This requirement shall take effect when building permits are required for the following situations in the affected zone(s):

1. All new construction on vacant parcels;

2. Any substantial modification to an existing site or structure in which the estimated construction cost is greater than fifty thousand dollars ($50,000) in either a single application or any number of applications within a ten (10) year period;

3. Subdivision approval in an A-l zone with rural street design approval.

F. The required landscaping percentage shall be strictly followed. (Ord. 267-00 § 6)

Title 13 PUBLIC SERVICES

Chapters:

Chapter 13.04 WATER SERVICE SYSTEM

Sections:

13.04.010 Regulations.

A. The city council shall establish by resolution such regulations governing the water system of the city, the manner of making connections to the system, the materials to be used in making such connections, and other regulations as may be necessary for the operation of the water system.

B. In the absence of a duly appointed water superintendent, the public works director or his or her agent shall act in the place of the superintendent. (Prior code § 6-6-1)

13.04.020 Rates and connection fees.

The rates, special expense fee for delinquency in payment, connection fee, reservoir fee, inspection fee and other charges incidental to connection to and services from the city water system shall be fixed periodically by resolution of the city council. Each person using city water services shall pay these amounts in exchange for water service. The city council may periodically promulgate additional rules for levying, billing and collecting charges for water services. Rates for services furnished shall be uniform with respect to each class or classes of service. (Prior code § 6-6-2)

13.04.030 Special rates.

The city council may periodically fix by agreement or resolution special rates and conditions for persons using exceptionally large amounts of water service or making use of the water system under exceptional circumstances. (Prior code § 6-6-3)

13.04.040 Board of equalization.

The city council is constituted a board of equalization of water rates to hear complaints and make corrections of any assessments alleged to be illegal, unequal, or unjust. (Prior code § 6-6-4)

13.04.050 Application for water service.

A. Any person desiring to secure water service from the city water department, when such service is available, shall apply therefore to the city recorder and file an agreement with the city which shall be in a form approved by the city.

B. All applications for water service shall be made by the owner of the premises to which water is being supplied, or by his or her agent or authorized representative.

Upon submitting an application for water service, each applicant shall deposit an amount which shall be fixed periodically by resolution of the city council. In the event the user shall fail to pay his or her water, garbage collection or other city utility charges, this deposit shall be applied to the payment of any such delinquent sums and charges therefore. The applicant shall, upon written demand of the city, repay to the city any portion of the deposit so applied. Upon termination of services, this deposit shall be returned without interest to the depositor if all such charges have been paid. (Prior code § 6-6-5)

13.04.060 Application for water connection by subdivider.

Whenever a subdivider or developer desires or is required to install water connections and extensions for a subdivision or development, the subdivider or developer shall enter into a written extension agreement. This agreement shall constitute an application for permission to make the extensions and connections. The agreement shall specify the terms and conditions under which the water extensions and connections shall be made and the payments that shall be required. (Prior code § 6-6-6)

13.04.070 Service outside city limits.

The city may furnish water service from its water system to persons outside the city in accordance with the provisions of this section.

A. Petition for Service. Any person located outside the city limits who desires to be supplied with water service from the city water system and is willing to pay in advance the whole expense of extending the water system to his or her property, including the cost of extending any water main beyond its present location, may make application to the city council by petition containing:

1. A description of the proposed extension;

2. A map showing the location thereof;

3. An offer to pay the whole expense incurred by the city in providing such extension and to advance such expense as shall be verified to by the water superintendent; and

4. An acknowledgement that the city in granting the petition need supply only a portion of that water which is in excess of the needs of water users within the city limits and that such extension shall be the property of and subject to the control of the city.

The city council and the persons seeking such extension may enter into an agreement providing in detail the terms under which the extension may be used by others in the future and the terms under which all or any portion of the cost of installing such extension may be refunded.

B. Cost of Extension and Rates for Service Outside City. Upon receipt of such petition and map and before the petition is granted, the city council shall determine what portion, if any, of the extension of the city's water mains to the city limits the city shall construct. The city council shall obtain from the water superintendent a verified statement showing the whole cost and expense of making the

extension. Such costs and expenses shall include administrative and supervisory expenditures of the city water department, which shall in no event be deemed to be less than ten (10) percent of the cost of materials and labor. The city shall also determine the rates to be charged for water service outside the city limits. (Prior code § 6-6-7)

13.04.080 Free access to premises by superintendent.

The superintendent or his or her agent shall have free access during proper hours to any property or premises to which water is furnished for the purpose of inspecting the plumbing apparatus or equipment which furnishes water to the premises. (Prior code § 6-6-8)

13.04.090 Billing for utility services.

The city treasurer or city recorder shall mail a written statement to each user of water, garbage collection or other service of the city once each month or such other regular interval as the city council shall direct. This statement shall separately specify the amount of the bill for the water service, garbage collection or other utility service and the place of payment and date due. If any person fails to pay his water, garbage collection or other city utility service charge within thirty (30) days of the date due, the account is deemed delinquent. The city treasurer or city recorder shall identify delinquent accounts on the 15th of each month for the prior month. Notice to delinquent accounts shall be sent to the utility customer with full payment being required within fifteen (15) calendar days. If no response is received from the utility customer, the city treasurer or recorder shall direct the water department to shut off all water service to the premises, by providing twenty-four (24) hour notice with a door hanger. Before water service shall be reinstated, all delinquent water, garbage collection and other utility service charges must have been paid to the city treasurer or city recorder, together with a special expense fee. The amount of this fee shall be set periodically by resolution of the city council. The city treasurer or recorder is authorized and empowered to enforce the payment of all delinquent water, garbage collection, and/or other utility service charges by an action of law in the corporate name of the city. The city treasurer or city recorder shall provide for and give notice of the appropriate procedure for resolving disputed bills. Services that have not been paid and have been shut off for a period of six consecutive months shall be deemed uncollectable and will be expensed as bad debt. (Ord. 264-00 (part): prior code § 6-6-9; amended by City Council on March 16, 2010 per Ord. 318-10)

13.04.100 Water meters.

All structures using water from the city water system must have a sufficient number of meters connected to their water systems as are necessary in the judgment of the superintendent to adequately measure use and determine water charges to the respective water users. Meters will be furnished by the city at the expense of the property holder, at rates established periodically by resolution, and shall be under the control of the water superintendent. In the event of a dispute between the superintendent and property owner as to the appropriate number of meters to be installed on any premises, the matter shall be heard and determined by the city council after due notice in writing to the parties involved. (Prior code § 6-6-10)

13.04.110 Turning off water.

Water services shall be turned off for users who commit or allow any prohibited acts or undertake or allow any prohibited uses with respect to the water system; or within two days after notice from the superintendent, fail to repair any service connection or plumbing on the premises; or shall fail to comply with any regulations or restrictions with respect to the use of water; or shall fail to pay within the time fixed by ordinance or

resolution, the rates specified for such water. Upon five days notice, the water superintendent or his or her agent shall shut off water to the user's premises.

When water is shut off for reason of defective plumbing or unrepaired water fixtures on the premises, the water shall not be turned on again until the same have been repaired in accordance with the requirements of the superintendent. (Prior code § 6-6-11)

13.04.120 Quality of service pipe.

The underground service and other pipes which extend from the water meter to the structure served shall be of copper, or polyethylene unless ordered otherwise by resolution of the city council. Such pipes shall be laid not less than four feet below grade and shall be of sufficient strength to withstand the water pressure. No more than one extension or connection from the meter shall be made, except by permission of the city council. (Ord. 264-00 (part): prior code § 6-6-12)

13.04.130 Pipes to be kept in good repair.

All water users at their own expense shall keep their service pipe connections and other apparatus in good repair and protected from frost. However, no person, except under the direction of the water department, shall be allowed to dig into the street for the purpose of laying, removing or repairing any service pipe. (Prior code § 6-6-13)

13.04.140 Extension and connection permits required.

It is unlawful for any person to extend any existing pipe or connect any pipe or fixture to the water system of the city for any purpose whatever; or to use, alter, disturb or make any opening into the water system for any reason without first obtaining a permit therefor from the city. All persons must report any plumbing work which connects to the city water system within twenty-four (24) hours after completing the work. (Prior code § 6-6-14)

13.04.150 Culinary purposes supplied first.

Water shall be supplied first for culinary purposes and all other uses shall be secondary thereto. (Prior code § 6-6-15)

13.04.160 Sprinkling lawns.

Water for sprinkling lawns shall be furnished through a nozzle, or other appliance, not larger than one-fourth of an inch in diameter, and no sprinkling shall be allowed, except in connection with other water service. In times of water scarcity and when deemed necessary by the city council, the mayor may limit and regulate by proclamation the use of water for lawn sprinkling. (Prior code § 6-6-16)

13.04.170 City not liable for damage.

The city shall not be liable for any damage to a water user by reason of stoppage or interruption of water supply caused by fires; scarcity of water; accidents to works or mains; water system alterations, additions, repairs; or from any other unavoidable cause. (Prior code § 6-6-17)

13.04.180 Water from nonmetered connections.

A. No water service shall be supplied to any private person through a fire hydrant, a nonmetered connection, or other connection designed primarily for the use of the city, except upon a special written permit issued by the water superintendent. Water service so permitted may be supplied only temporarily for a period not exceeding sixty (60) days. Upon a showing that the necessity therefore continues without fault of the consumer, this permit may be extended for successive periods.

B. Such temporary water service may be rendered only through facilities and connections provided and connected by the water department and must be so designed and installed as to permit continued use of the fire hydrant or other connection for its primary purpose. (Prior code § 6-6-18)

13.04.190 Non-recirculating air conditioning systems.

Air conditioning systems or equipment which do not provide for the recirculation of water used therein shall not be connected to the city water system. (Prior code § 6-6-19)

13.04.200 Prohibited acts and uses.

A. It is unlawful for any person, his or her family, or his or her agents to use the city water system, garbage facilities, or other utility services without paying therefore, as herein provided.

B. It is unlawful for any person without proper authorization to open any fire hydrant, stopcock, valve or other fixtures attached to the system of water supply.

C. Impairment of System. It shall also be unlawful for any person to injure, damage, destroy, deface or interfere with any of the property of the waterworks system or to cast anything into any reservoir or tank or service line belonging to the water system.

D. Fixtures and Fittings. It is unlawful for any person to use any kind of fitting, stopcock, drawcock or other equipment in connection with the water system, except as prescribed by the water department, or to tamper with or change the connection to any water meter. It shall also be unlawful for any person to open or take water from any fire hydrant in the city without prior authorization from the fire chief or the water superintendent.

E. Waste of Water. No person, unless authorized by the city council, shall turn on or discharge water from any fire hydrant, and no water user or other person shall waste water or allow it to be tasted by imperfect stops, taps, valves, leaky joints or pipes; or to allow tanks or watering troughs to leak or overflow; or to wastefully run water from hydrants, faucets, or stops through basins, water closets, urinals, sinks or other apparatus. Furthermore, no person shall use any water from the water system except for culinary and domestic purposes, including lawn sprinkling, unless so authorized by the city council. Nor shall any person use water for purposes other than those for which he or she has paid, or use water in violation of the rules and regulations adopted by the city council.

F. Interference with Superintendent of Waterworks System. It is unlawful for any person to interfere with, molest, hinder or obstruct the superintendent, or any of his or her agents, while in the performance of his or her duties.

G. Unlawful to Befoul, Pollute or Contaminate Water. It is unlawful for any person to befoul, pollute or contaminate city water, or to in any manner interfere with the flow thereof, or with its control or distribution.

H. Turning On Water After Turned Off by City. It is unlawful for any person, after the water has been turned off from his or her premises for nonpayment of water charges, or other violation of the ordinances, rules, regulations or resolutions pertaining to the water supply, to turn on or allow the water to be turned on or used without authority from the superintendent or recorder.

I. Unauthorized Users. It is unlawful for any water service user to permit any person from other premises or any unauthorized person to use or obtain water services regularly from his or her premises or water facilities, either outside or inside his or her premises.

J. Outlets and Sprinklers. It is unlawful to use simultaneously such number or combination of outlets or sprinklers as the city council shall by regulation specify when, in the opinion of the council, their use will materially affect the pressure or supply of water in the city water system, or any part thereof. After a determination that such improper use exists, the water superintendent shall notify the affected water user, or the owner of the premises whereon such use occurs, of the determination in writing and order such use discontinued. The superintendent shall further advise him that such continued usage constitutes a violation of this chapter.

K. Separate Connections. It is unlawful for two or more families or service users to be supplied from the same service pipe, connection or water meter unless special permission for such combination usage has been granted by the city council and the premises served are owned by the same owner. In all such cases, a failure on the part of any one of the users to comply with this section shall warrant a withholding of water until compliance or payment has been made. In any event, the property owner shall be primarily liable to the city for all water services used on all such premises. Furthermore, nothing herein shall be deemed to preclude the power of the city to require separate pipes, connections or meters at a subsequent time. (Prior code § 6-6-20)

Chapter 13.08 DRINKING WATER SOURCE PROTECTION

Sections:

13.08.010 Short title.

This chapter shall be known as the "drinking water source protection ordinance" (the "ordinance"). The provisions of this chapter shall be effective within the municipal boundaries of West Bountiful City, Utah. (Ord. 250-98 § 1.1)

13.08.020 Applicability.

It shall be the responsibility of any person owning real property and/or operating a business within the jurisdiction of the city to conform and comply with the applicable provisions contained in this chapter.

Ignorance of this provision shall not excuse any violations of this chapter. (Ord. 250-98 § 1.2)

13.08.030 Authority.

The city has authority to adopt the ordinance codified in this chapter in order to facilitate compliance with the drinking water source protection regulations promulgated pursuant to Utah Administrative Code, Section R309-113, and pursuant to authority set forth in the Utah Land Use Development and Management Act, Section 10-9-102, Utah Code Annotated, 1953, as amended, and other applicable statutory and common laws of the state of Utah. (Ord. 250-98 § 1.3)

13.08.040 Purpose.

A. Purpose. The purpose of this chapter is to insure the provision of a safe and sanitary drinking water supply for the city by the establishment of drinking water source protection zones surrounding the wellheads for all wells which are the supply sources for the city water system, and by the designation and regulation of property uses and conditions which may be maintained within such zones. Unless otherwise specified, the provisions of this chapter apply to new development and/or the handling, movement, and storage of potentially hazardous materials.

B. Protection. The degree of protection afforded by this chapter is considered adequate for regulatory purposes. This chapter does not ensure that public drinking water sources will not be subject to accidental or intentional contamination, nor does it create liability on the part of the city, or any officer or employee thereof, for any damages to the public water supplies arising out of reliance on this chapter or any administrative order lawfully made hereunder.

C. Compliance with Other Applicable Laws. A notice to cease or an exemption issued under this chapter shall not relieve the owner of the obligation to comply with any other applicable federal, state, regional or local law or regulations, rules, ordinances, laws or requirements, nor shall any such notice or exemption relieve any owner of any liability for violation of such regulations, rules, ordinances, laws or requirements. (Ord. 250-98 § 2)

13.08.050 Definitions.

When used in this chapter the following words and phrases shall have the meanings given in this section:

"**Best management practices (or BMP)**" means a practice or combination of practices determined to be the most effective practicable means of preventing or reducing the amount of pollution to a level compatible with water, soil, and air quality goals (including technological, economic, and institutional considerations).

"**Code**" means the West Bountiful Municipal Code, as amended.

"**Code inspector**" means any authorized officer, employee or agent of the city whose duty is to assure code compliance.

"**Continuous transit**" means the nonstop movement of a mobile vehicle except for stops required by traffic laws.

"**Council**" means the city council of West Bountiful City, Utah.

"**Department**" means the West Bountiful City public works department.

"**Design standard**" means a control which is implemented by a person having a potential contamination source to prevent discharges to the groundwater. Spill protection is an example of a design standard.

"**Discharge**" means, but is not limited to, spilling, leaking, seeping, pouring, injecting, emitting, emptying, disposing, releasing or dumping regulated substances to the soils, air, groundwaters or surface waters of the city. Discharge does not include the use of a regulated substance in accordance with the appropriate use

intended or specified by the manufacturer of the substances; provided that such use is not prohibited by federal, state or local laws or regulations. Discharge also does not include discharges specifically authorized by federal or state permits.

"**Drinking water source protection review committee**" means that certain committee comprised of the city administrator, city engineer and such other officers or employees of the department as the council may designate.

"**Drinking water source protection zone**" means an area within which certain practices are mandated to protect groundwater flowing to public drinking water wells.

"**DWSP**" means drinking water source protection.

"**EPA**" means the United States Environmental Protection Agency.

"**Groundwater**" means any water which may be drawn from the ground.

"**Groundwater divide"** means the subsurface boundary at which groundwater flow occurs in opposite directions, usually occurring at the high and low points of surface topography. Groundwater flows away from this line at all times.

"**Hazardous waste**" means any hazardous waste as defined by the EPA.

"**Land management strategies**" means zoning and nonzoning controls which include, but are not limited to the following: zoning and subdivision ordinances, site plan reviews, design and operating source prohibitions, purchase of property and development rights, public education programs, groundwater monitoring, household hazardous waste collection programs, water conservation programs, memoranda of understanding, written contracts and agreements, and so forth.

"**Person**" means an individual, form, partnership, corporation, association, joint venture, governmental entity or other legal entity, and shall include the plural as well as the singular.

"**Petroleum product**" means fuels (gasoline, diesel fuel, kerosene, and mixtures of these products), lubricating oils, motor oils (new and used), hydraulic fluids, and other similar petroleum-based products.

"**Pollution source**" means point source discharges of contaminants to groundwater or potential discharge of the liquid forms of "extremely hazardous substances" which are stored in containers in excess of "applicable threshold planning quantities" as specified in SARA Title III. Examples of possible pollution sources include, but are not limited to, the following: storage facilities that store the liquid forms of extremely hazardous substances, septic tanks, drain fields, Class V underground injection wells, landfills, open dumps, land filling, of sludge and septage, manure piles, slat piles, pit privies, and animal feeding operations with more than ten animal units. The following clarify the definition of pollution source:

1. "**Animal feeding operation**" means a lot or facility where the following conditions are met: animals have been or will be stabled or confined and fed or maintained for a total of forty-five (45) days or more in any twelve (12) month period, and crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Two or more animal feeding operations under common ownership are considered to be a single feeding operation if

they adjoin each other, if they use a common area, or if they use a common system for the disposal of wastes.

2. "**Animal unit**" means a unit of measurement for any animal feeding operation calculated by adding the following numbers; the numbers of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over fifty-five (55) pounds multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

3. "**Extremely hazardous substances**" means those substances which are identified in the Sec. 302(EHS) column of the "Title III List of Lists - Consolidated List of Chemicals Subject to Reporting Under SARA Title III" (EPA 560/91-011).

"**Potential contamination source (or PCS)**" means any facility or site which employs an activity or procedure which may potentially contaminate groundwater. A pollution source is also a potential contamination source.

"**Protection zone**" means the delineation zones of the drinking water source protection zone, as set forth in Section 13.08.060.

"**Regulated substances**" means substances (including degradation and interaction products) which because of quantity, concentration, or physical, chemical (including ignitability, corrosivity, reactiveness and toxicity), or infectious characteristics, radio mutagenicity, carcinogenicity, teratogenicity, bioaccumulative effect, persistence (nondegradability) in nature, or any other characteristics relevant to a particular material that may cause significant harm to human health and/or the environment (including surface and groundwater, plants and animals).

"**Regulatory agency**" means any governmental agency with jurisdiction over hazardous waste as defined herein.

"**Sanitary landfill**" means a disposal site where solid wastes, including putrescible wastes, or hazardous wastes, are disposed of on land by placing earth cover thereon.

"**SARA**" means the Superfund Amendment and Reauthorization Act, Title III, 40 CFR 300-302.

"**Septic tank/drainfield systems**" means a system which is comprised of a septic tank and a drain-field which accepts domestic wastewater from buildings or facilities for subsurface treatment and disposal. By their design, septic tank/drain-field system discharges cannot be controlled with design standards.

"**Well**" means any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of such excavation is for the location, acquisition, development or artificial recharge of groundwater.

"**Wellhead**" means the upper terminal of a well, including adapters, ports, seals, valves and other attachments. (Ord. 250-98 § 3)

13.08.060 Drinking water source protection zones.

There is established use districts to be known as zones one, two, three and four of the drinking water source protection area, identified and described as follows:

A. **Zone One**. Zone one is the area within a one hundred (100) foot radius from the wellhead.

B. **Zone Two**. Zone two is the area within a two hundred fifty (250) day groundwater time of travel to the wellhead, the boundary of the aquifer(s) which supplies water to the groundwater source, or the groundwater divide, whichever is closer.

C. **Zone Three**. Zone three (waiver criteria zone) is the area within a three year ground-water time of travel to the wellhead or margin of the collection area, the boundary of the aquifer(s) which supplies water to the groundwater source, or the groundwater divide, whichever is closer.

D. **Zone Four**. Zone four is the area within a fifteen (15) year groundwater time of travel to the wellhead, the boundary of the aquifer(s) which supplies water to the groundwater source, or the groundwater divide, whichever is closer. (Ord. 250-98 § 4)

13.08.070 Uses within drinking water source protection zones.

Unlawful Discharges. No person shall discharge, or permit the discharge of any regulated substances or petroleum products, whether treated or untreated, to soils, air, groundwater or surface water in any protection zone, that may have a deleterious effect upon groundwater within the city, unless the discharge is in compliance with all applicable federal, state and local laws and regulations.

B. Permitted Uses. The following uses shall be permitted within drinking water source protection zones:

1. Any use permitted within existing agricultural, single-fam ily residential, multifamily residential, and commercial districts so long as such uses conform to the rules and regulations of any regulatory agency having jurisdiction;

2. Any other open land use where any building located on the property is incidental and accessory to the primary open land use.

C. Prohibited Uses. The following uses or conditions are prohibited within drinking water source protection zones, whether or not such use or condition may otherwise be ordinarily included as a part of a use permitted under subsection B of this section.

1. Zone one: the location of any pollution source as defined herein.

2. Zone two: the location of a pollution source unless its contaminated discharges can be controlled with design standards.

3. Zones three and four: the location of a potential contamination source unless it can be controlled through land management strategies.

D. Reporting of Spills. Any spill of a regulated substance in excess of the non aggregate quantity thresholds established by the List of Hazardous Waste (40 CFR part 261, Subpart D), 40 CFR Appendix VIII - Hazardous Constituents and EPA Designation Reportable Quantities and Notification Requirements for Hazardous Substances under CERCLA (40 CFR 302, effective July 3, 1986), shall be reported by telephone to the city within one hour of discovery of the spill. Cleanup shall commence immediately upon discovery of the spill. A full written report shall be submitted to the city within fifteen (15) days of discovery of the spill.

E. Best Management Practices. Under the provisions of this chapter, all potential contamination sources within the city's boundaries shall incorporate and utilize best management practices in their operations. BMPs that reduce the potential for spills and leaks at a site to occur and enter groundwater shall be construed within the context of this chapter to include, but not be limited to, structural and nonstructural practices, conservation practices, and operation and maintenance procedures as specified by the Utah Department of Environmental Quality, Division of Drinking Water and the EPA. (Ord. 250-98 § 5)

13.08.080 Administration.

Except as otherwise provided herein, the policies and procedures for administration of any protection zone established under this chapter, including without limitation those applicable to nonconforming uses, exceptions, enforcement and penalties, shall be the same as provided in the existing zoning ordinance for the city, as the same is presently enacted or may from time to time be amended. (Ord. 250-98 § 6)

13.08.090 Exclusions.

The following substances are not subject to the provisions of this chapter, provided that these substances are handled, stored, and disposed of in a manner that does not result in an unauthorized discharge or cause contamination of the groundwater.

A. Required substances stored at residences that do not exceed ten (10) pounds or five (5) gallons and used for personal, family or household purposes;

B. Commercial products limited to use at the site solely for office or janitorial purposes when stored in total quantities of less than twenty (20) pounds, or ten (10) gallons;

C. Prepackaged consumer products available through retail sale to individuals for personal, family or household use, that are properly stored;

D. Water-based latex paint;

E. Fertilizers and treated seed;

F. Pesticide products and materials intended for use in weed abatement, pest control, erosion control, soil amendment or similar applications when applied in accordance with manufacturer's instructions, label directions, and nationally recognized standards;

G. Compressed gases;

H. Substances or mixtures which may pose a hazard but are labeled pursuant to the Federal Food, Drug, and Cosmetic Act. (Ord. 250-98 § 7.1)

13.08.100 Exemptions.

The following are exempt from the provisions of this chapter:

A. Continuous transit. The transportation of any regulated substance(s) through any drinking water protection zone shall be allowed provided that the transporting vehicle is in continuous transit.

B. Vehicular and Lawn Maintenance Fuel and Lubricant Use. The use of any petroleum products solely as an operational fuel in the vehicle or lawn maintenance fuel tank or as a lubricant in such a vehicle shall be exempt from the provisions of this chapter. These spent products shall be properly disposed of in compliance with applicable federal, state, and local laws and regulations. (Ord. 250-98 § 7.2)

13.08.110 Nonapplicability of exclusions and exemptions.

The exclusions set forth in Section 13.08.090 and the exemptions set forth in Section 13.08.100 above shall not apply to Zone 1. (Ord. 250-98 § 7.3)

13.08.120 Enforcement--Inspections.

The department is granted the right to enforce the provisions of this chapter on behalf of the city. The code inspector has the right to conduct inspections to determine compliance with the provisions of this chapter. The code inspector shall inform the department and other city officials and entities, as deemed appropriate, of the results of the inspection and whether violations were noted. The code inspector shall enforce the provisions of this chapter without regard to whether the wells within the city boundaries are owned by the city.

Noncompliance with the provisions of this chapter is a violation of this chapter. In the event any person is found to be in noncompliance with the requirements of this chapter, penalties (e.g., citations of noncompliance, orders to cease operations or administrative penalties) may be assessed.

This chapter regulates businesses within the drinking water source protection zones within the city. (Ord. 250-98 § 8.1)

13.08.130 Violations--Penalties.

Whenever it is determined that there is a violation of this chapter or the regulations promulgated pursuant hereto, then:

A. Any person found to be in violation of any provisions of this chapter will be served with a written notice stating the nature of the violation and providing a reasonable time frame for compliance. The department will deliver notice to the violator. The notice of violation shall:

1. Be in writing;

2. Be dated and signed by the code inspector that made the inspection or determined the violation;

3. Specify the violation or violations;

4. Provide a specific date that the violations will be corrected by;

5. State that if the violation is not corrected by a specific date a hearing may be requested before the department.

B. If the violation does not pose an immediate threat to public health, then a written warning of violation may be issued within thirty (30) days. The violator has the opportunity to show a good faith effort to correct an unintentional violation within a reasonable amount of time.

C. In the event of a discharge of a regulated substance, if the department deems the activity to pose a real and present danger of contaminating surface or groundwater which would normally enter the public water supply, the department has the authority under this chapter to cause the immediate cessation of the activity or use of such regulated substance, require administrative controls to mitigate the danger and/or initiate other pollution control and abatement activities which it deems necessary in its discretion.

D. A facility is in violation of this chapter, if use of regulated substances in a drinking water source protection zone exceeds twenty (20) gallons or one hundred sixty (160) pounds at any time. The total use of regulated substances may not exceed fifty (50) gallons or four hundred (400) pounds in any twelve (12) month period.

E. A cease and desist order shall be issued by the department if the violator is found not to employ BMP and there is an immediate threat to public health and safety or if the violation is not corrected within the time frame specified in a written warning previously issued to the violator. In the event the violator fails to comply with a cease and desist order within the specified time period, the department has the authority to initiate proceedings for issuance of penalties and other relief as necessary.

F. Violations of the provisions of this chapter constitute a misdemeanor, punishable as provided by law. (Ord. 250-98 § 8.2)

13.08.140 Appeals.

Persons cited under the enforcement provisions of Section 13.08.130 shall be afforded a process for appealing the ruling of the department.

A. If the appeal pertains to a written warning of violation requesting the violator to correct an unintentional violation in a reasonable amount of time, the appellant can submit to the department a written statement demonstrating compliance or explaining a process for coming in to compliance. This written response is required no later than thirty (30) days from the date of issuance of the warning.

B. If the appeal pertains to a cease and desist order issued by the department, the appellant may submit a written appeal response no later than ten (10) days from the date of issuance of the order.

C. The written appeal shall contain:

1. Documentation of compliance; or

2. A response to the specific violations cited in the cease and desist order and the remedial actions planned to bring the facility into compliance; and

3. A reasonable schedule for compliance.

D. Upon receipt of the written appeal, the department shall be required to review the appeal within ten (10) days of its receipt and respond to the appellant. If the department determines that the written response from the appellant is adequate and noncompliance issues are addressed, the appellant will be notified by mail and no further action is required. If the department determines that the appeals response is inadequate, the appellant may request a hearing before the department. This hearing shall be held within thirty (30) days of receiving the cease and desist order and shall remain in effect until the hearing is conducted. (Ord. 250-98 § 8.3)

13.08.150 Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and other restrictions, including land use codes or development regulations, conflict or overlap, whichever imposes the most stringent restrictions shall prevail. (Ord. 250-98 § 9.1)

13.08.160 Disputes.

Disputes arising from the delineation of drinking water source protection zones shall be directed to the drinking water source review committee to review specific detailed delineation maps showing the boundaries. The boundaries shall be defined, for ease of implementation of this chapter at least once every five years, or more frequently if determined appropriate by the city, to determine its applicability. The city may incorporate changes as deemed appropriate. (Ord. 250-98 § 9.2)

13.08.170 Review of chapter provisions.

The city and the drinking water source review committee, in consultation with all water utilities whose wells and/or springs lie within the city's boundaries, shall review the provisions of this chapter at least once every five years, or more frequently if determined appropriate by the city, to determine its applicability, and may incorporate changes as deemed appropriate. (Ord. 250-98 § 9.3)

13.08.180 Liability.

Any person subject to regulation under this chapter shall be liable with respect to regulated substances emanating on or from the person's property for all cost of removal or remedial action incurred by the city or the department and for damages for injury to, destruction of, or loss of natural resources, including the reasonable cost of assessing such injury, destruction, or loss from the release or threatened release of a regulated substance as defined by this chapter. Such removal or remedial action by the city or the department may include, but is not limited to, the prevention of further contamination of groundwater, monitoring, containment and cleanup or disposal of regulated substances resulting from spilling, leaking, pumping,

pouring, emitting or dumping of any regulated substance or material which creates an, or is expected to create, an emergency or hazardous situation. (Ord. 250-98 § 10)

Chapter 13.12 IRRIGATION SYSTEM AND NATURAL WATERCOURSES

Sections:

13.12.010 Prohibited uses of non-potable or irrigation water.

It is unlawful for any person to:

A. Use or cause to be used any untreated or nonpotable water from a pressure irrigation system for other than irrigation purposes;

B. Interconnect or cause to be interconnected the potable and nonpotable portions, distribution systems or service lines of dual water supplies or extensions thereof;

C. Install or cause to be installed in the same trench or trenches the distribution or service lines of potable and nonpotable water;

D. Connect or cause to be connected a service line to any distribution system or main line carrying nonpotable water without authority of the district, municipality, company or person having jurisdiction of the nonpotable water supply;

E. Extend or cause to be extended into any building a nonpotable water supply system or service line;

F. Connect or cause to be connected to any fire hydrant, a nonpotable water supply or service line;

G. Expose or cause to be exposed any portions of a nonpotable water supply, or extensions or service lines thereof, without identifying the same by distinctive coloring or other suitable means sufficient to distinguish the same from potable water supply systems, extensions or service lines; or

H. Contaminate or cause to be contaminated any source of supply, service line, or distribution system furnishing or carrying nonpotable water or potable water. (Prior code § 6-8-1)

13.12.020 Damming or obstructing water course or stream.

It is unlawful for any person to place, replace or maintain any dam or other obstruction of any kind in the channel of any natural or artificial water course or living stream within the limits of the city so as to interfere

with or impede the flow of the water therein, without first obtaining a permit from the city council. (Prior code § 6-8-2)

13.12.030 Permit necessary for culvert or other obstruction.

Any person desiring any permit to build a dam or place a culvert or other obstruction in a water course or stream shall file a petition with plans and specifications for the construction of the same. No such permit shall be issued until the plans and specifications have been approved by the city engineer or the city council. (Prior code § 6-8-3)

Chapter 13.16 SEWER SYSTEM

Sections:

Article 1. Sewer Regulations

13.16.010 Owner required to connect to sewer.

The owner of all houses, buildings or properties used for human occupancy, employment, recreation, commercial, industrial or other like purposes, situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer, owned and operated by the city or owned or operated by any special improvement sanitary sewer district, is required, at his or her expense, to install suitable toilet facilities therein. The owner shall also connect such facilities directly with the proper public sewer within ninety (90) days after the date that the public sewer is available for use; provided, that the public sewer line is within three hundred (300) feet of any such building discharging sanitary or industrial waste. All such connections shall be made in accordance with the provisions of this article. (Prior code § 6-11-1)

13.16.020 Permit required.

No unauthorized person shall uncover, use, alter, disturb or make any connections with or opening into any public sewer or appurtenance thereof for any reason without first obtaining a written permit from the district or the owner of such sewer facilities. (Prior code § 6-11-2)

13.16.030 Independent service lines necessary.

A separate and independent service lateral shall be provided for every building, except when one building stands at the rear of another or on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway. The service lateral from the front building may be extended to the rear building and the whole considered as one service lateral. (Prior code § 6-11-3)

13.16.040 Discharging excessive water into sewer.

It is unlawful for any person to discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, or subsurface drainage into any sanitary sewer.

Such storm water and all other unpolluted drainage shall be discharged to specifically designated as storm sewers, or to a natural outlet consisting of water courses, ponds, ditches, lakes or other bodies of surface or ground water provided for receiving the same. (Prior code § 6-11-4)

13.16.050 Damage to sewer system.

No unauthorized person shall maliciously, wilfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is a part of a sanitary sewer facility or sewage works, or remove any manhole cover therefrom. (Prior code § 6-11-5)

13.16.060 Authorization necessary to reconnect.

It is unlawful for any person, after sewer service to any premises has been discontinued or disconnected for any reason whatsoever, to reconnect or resume such service or for the owner or occupant of such premises to allow the same to be reconnected or resumed without prior authorization of the district or other owner of such sanitary sewer. (Prior code § 6-11-6)

13.16.070 Authorized representatives to have free access.

At reasonable hours, free access shall be allowed to authorized representatives of the district or other owner of such sanitary sewer to inspect and examine such facilities, including service laterals connected to the building; to inspect the plumbing and facilities therein and the manner of use of such sewer facilities; and to determine compliance with the rules and regulations of the district or other owner of such sanitary sewer facilities. (Prior code § 6-11-8)

Article 2. Effluent Discharge and Monitoring

13.16.080 Purpose and policy.

This article sets forth uniform requirements for direct contributors into the wastewater collection and treatment system of the South Davis County sewer improvement district and enables the district to comply with all applicable state and federal laws required by the Clean Water Act of 1977 and the General Pretreatment Regulations (40 CFR, Part 403). The objectives of this article are:

A. To prevent the introduction of pollutants into the district's wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;

B. To prevent the introduction of pollutants into the district's wastewater system which will pass through the system, inadequately treated, into receiving waters, the atmosphere or otherwise be incompatible with the system;

C. To improve the opportunity to recycle and reclaim wastewaters and sludges from the system.

This article provides for the regulation of direct contributors to the district's wastewater system through the issuance of permits to certain nondomestic users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customer capacity will not be preempted and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein. (Prior code § 6-12-1)

13.16.090 Definitions.

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this article, shall have the meanings hereinafter designated:

"**Act**" or "**the Act**" means the Federal Water Pollution Control Act, P.L. 92-500 also known as the Clean Water Act, including the amendments as made by the Clean Water Act of 1977, P.L. 95-217, and any subsequent amendments.

"**Approval authority**" means the Division of Water Quality of Utah which has an approved state pretreatment program and the Administrator of the EPA.

Authorized Representative of Industrial User. An authorized representative of an industrial user may be:

1. A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;

2. A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;

3. A duly authorized official representative if the user is a governmental entity; or

4. A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

"**Board**" or "**board of trustees**" means the governing body of the South Davis County sewer improvement district.

"**Biochemical oxygen demand (BOD)**" means the quantity of oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure, five days at twenty (20) degrees Celsius expressed in terms of weight and concentration (milligrams per liter (mg/l)).

Laboratory determinations shall be made in accordance with procedures set forth in Standard Methods.

"**Building**" or "**lateral sewer**" means a sewer conveying the wastewater of a user from a residence building or other structure to a sewer, including direct connections to a sewer where permitted. A lateral sewer is a building sewer.

"**Business classification code (BCC)**" means a classification of dischargers based on the 1972 Standard Industrial Classification Manual, Bureau of the Budget of the United States of America.

"**Categorical standards**" means National Categorical Pretreatment Standards or Pretreatment Standard as set forth in the Code of Federal Regulations.

"**Chemical oxygen demand (COD)**" means the oxygen equivalent of that portion of organic matter in a wastewater sample that is susceptible to oxidation by a strong chemical oxidant.

"**Contamination**" means an impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the environmental and/or public health through poisoning or through the spread of disease, as described in Standard Methods.

"**Control authority**" refers to the general manager of the South Davis County sewer improvement district.

"**Cooling water**" means the water discharged from any use such as air conditioning, cooling or refrigeration or to which the only pollutant added is heat.

"**Direct discharge**" means the discharge of treated or untreated wastewater directly to the waters of the state of Utah.

"**Discharger**" means any person who discharges or causes the discharge of wastewater to a district or other publicly owned treatment works (POTW) sewer system.

"**District**" means the South Davis County sewer improvement district.

"**Environmental Protection Agency**" or "**EPA**" means the U.S. Environmental Protection Agency, or when appropriate, the term may also be used as a designation for the administrator or other duly authorized official of the Agency.

"**Garbage**" means putrescible animal and vegetable waste resulting from the preparation, cooking and dispensing of food and from handling, storage and sale of produce.

"**Grab sample**" means a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

"**Holding tank sewage**" means any wastewater from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, sealed vaults and vacuum pump tank trucks.

"**Indirect discharge**" means the discharge or the introduction of nondomestic pollutants from any source into the district wastewater system (including holding tank waste discharged into the system).

"**Industrial user**" means any user that discharges wastewater from commercial, governmental and/or industrial processes.

"**Interference**" means the inhibition or disruption of the district treatment processes or operations or any disruption which contributes to a violation of any requirement of the district NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in compliance with, any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act or more stringent state criteria (including those contained in any state sludge management plan) applicable to the method of treatment employed by the district.

"**Manager**" means the chief executive officer of the district or his or her designated representative.

"**National Categorical Pretreatment Standard**" or "pretreatment standard" means any regulation containing pollutant discharge limits promulgated by the EPA which applies to a specific category of industrial user.

"**National Prohibitive Discharge Standard**" or "**prohibitive discharge standard**" means any prohibitive regulation developed under the authority of the Act.

"**New source**" means any wastewater source commenced after the publication of proposed regulations prescribing a categorical pretreatment standard which will be applicable to such source, if such standard is thereafter promulgated within one hundred twenty (120) days of proposal in the Federal Register. When the standard is promulgated later than one hundred twenty (120) days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.

"**National Pollution Discharge Elimination System Permit (NPDES permit)**" means a permit issued pursuant to the Act.

"**Pass-through pollutants**" means the discharge of pollutants which pass through the district's wastewater treatment facilities into waters of the state in quantities or concentrations which are a cause of or significantly contribute to a violation of any requirement of the district's NPDES/UPDES permit including an increase in duration or magnitude of the violation.

"**pH**" means the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of a solution.

"**Pollution**" or "**pollutant**" means the manmade or man-induced alteration of the chemical, physical, biological and radiological integrity of water, including, but not limited to, any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

"**Pretreatment**" or "**treatment**" means the reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW.

The reduction or alteration can be obtained by physical, chemical or biological processes or process changes or other means unless prohibited by state or federal regulations.

"**Pretreatment requirements**" means any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an industrial user.

"**Publicly owned treatment works (POTW)**" means a treatment works which is owned by the state of Utah or one or more political subdivisions having statutory authority to collect and treat sewage, specifically including the district. This definition includes any sewers that convey wastewater to the POTW treatment plant. For the purposes of this regulation, POTW shall also include any sewers that convey wastewater to the POTW from persons outside the POTW boundaries who are by contract or agreement with the POTW actually users of the POTW.

"**POTW governing authority**" refers to the board of trustees of the district.

"**POTW treatment plant**" means that portion of the POTW designed to provide treatment for wastewater, including specifically the treatment plant and facilities of the district.

"**Receiving water quality requirements**" means requirements for the district's treatment plant effluent established by the district or by applicable state or federal regulatory agencies for the protection of receiving water quality. Such requirements shall include effluent limitations and waste discharge standards, requirements, limitations or prohibitions which may be established or adopted periodically by state or federal laws or regulatory agencies.

"**Rules and regulations**" means the wastewater rules and regulations adopted periodically by the POTW governing authority.

"**Sanitary sewer**" means the pipe or conduit system and appurtenances for the collection, transportation, pumping and treatment of sewage. The definition shall also include the terms "public sewer," "sewer system," "POTW sewer," "sewer" and "district sewer."

"**Sewage**" means the water-borne wastes discharged to the sanitary sewer from buildings for residential, business, institutional, governmental and industrial purposes. Wastewater and sewage are synonymous; thus, they are interchangeable.

"**Significant industrial user (SIU)**" means any industrial user of the wastewater collection or treatment system who: (a) is subject to any categorical pretreatment standard; (b) has a discharge flow of twentyfive thousand (25,000) gallons or more within a twenty-four (24) hour period (excluding sanitary, non-contact cooling and boiler blowdown wastewater); (c) has a process waste stream greater than five percent of the design average dry weather hydraulic or organic capacity of the district's wastewater treatment plant; (d) has in its wastes, toxic pollutants as defined pursuant to the Act or Utah Statutes and Regulations; or (e) is found by the district, the Utah State Water Pollution Control Committee, or the U.S. Environmental Protection Agency (EPA) to have significant impact either singly or in combination with other contributing industries, on the wastewater treatment plant, the quality of sludge, the system's effluent quality or air emissions generated by the system.

Significant Noncompliance (SNC). An industrial user is in significant noncompliance if its violation meets one or more of the following criteria:

1. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

2. Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);

3. Any other violation of a pretreatment effluent limit (daily maximum or longerterm average) that the control authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

4. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge;

5. Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction or attaining final compliance;

6. Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic selfmonitoring reports and reports on compliance with compliance schedules;

7. Failure to accurately report noncompliance; and/or

8. Any other violation or group of violations which the control authority determines will adversely affect the operation or implementation of the local pretreatment program.

"**Slug**" means any discharge of a nonroutine, episodic nature, including, but not limited to an accidental spill or a noncustomary batch discharge. Slug discharges shall include the discharge of any pollutant in quantities sufficient to cause the district to exceed its NPDES/UPDES discharge limitations.

"**Standard methods**" means procedures described in the latest edition of "Standard Methods for the Examination of Water and Wastewater" as published by the American Public Health Association, the American Water Works Association and the Water Environment Federation or such other procedures as may be adopted by the district.

"**State**" means state of Utah.

"**Standard industrial classification (SIC)**" means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

"**Storm sewer**" means a sewer that carries only storm, surface and groundwater drainage.

"**Stormwater**" means any flow occurring during or following any form of natural precipitation and resulting therefrom.

"**Subdivision**" means the division of a tract, lot or parcel of land into two or more lots, plots, sites or other divisions of land for the purpose, whether immediate or future, of sale or of building development or redevelopment; provided, however, that divisions of land for agricultural purposes shall be exempt. The word "subdivide" and any derivative thereof shall have reference to the term subdivision as herein defined.

"**Total suspended solids (TSS)**" means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids and which is removable by laboratory filtering in accordance with procedures set forth in Standard Methods.

"**Toxic pollutant**" means any pollutant or combination of pollutants found to be toxic or stipulated as toxic in regulations promulgated by the administrator or the Environmental Protection Agency under the Act.

"**User**" means any person who contributes, causes or permits the contribution of wastewater into the district wastewater system.

"**Utah Pollutant Discharge Elimination System Permit (UPDES permit)**" means a permit issued by the Water Pollution Control Committee of the state of Utah pursuant to Title 26, Chapter 11 of the Utah Code Annotated 1953, as amended.

"**Viscosity**" means the property of a fluid that resists internal flow by releasing counteracting forces.

"**Wastewater**" means the liquid and water carried industrial or domestic wastes from dwellings, commercial buildings, governmental facilities, industrial facilities and institutions, together with any infiltrating groundwater, surface water or storm water that may be present, whether treated or untreated, which enters the district wastewater system.

"**Waters of the state**" means all streams, lakes, ponds, marshes, water courses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the state or any portion thereof.

"**Wastewater discharge permit**" means as set forth in Sections 13.16.220 through 13.16.290.

"**Wastewater treatment facilities**" means the district wastewater collection and treatment lines, facilities and equipment or those of any other POTW.

"**Wastewater strength**" means the quality of wastewater discharged as measured by its elements, including its constituents and characteristics. (Prior code § 6-12-2)

13.16.100 Abbreviations.

The following abbreviations shall have the designated meanings:

BOD = biochemical oxygen demand

CFR = Code of Federal Regulations

COD = chemical oxygen demand

EPA = Environmental Protection Agency

L = liter

mg = milligrams

mg/l = milligrams per liter

NPDES = National Pollutant Discharge Elimination System

POTW = publicly owned treatment works

SIC = standard industrial classification

SWDA = Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.

TSS = total suspended solids

UPDES = Utah Pollution Discharge Elimination System

USC = United States Code (Prior code § 6-12-3)

13.16.110 General discharge prohibitions.

No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of the POTW whether or not the user is subject to National Categorical Pretreatment Standards or any other national, state or local pretreatment standards or requirements. A user may not contribute the following substances to the POTW:

A. Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient, either alone or by interaction with other substances, to cause a fire or explosion hazard or be injurious in any other way to the POTW or to the operation thereof. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system), be more than five percent, nor any single reading over ten (10) percent of the lower explosive limit (LEL) of the meter. Wastestreams with a closed cup flashpoint of less than one hundred forty (140) degrees Fahrenheit, or sixty (60) degrees Celsius using the test methods specified in 40 CFR, Section 261.21 shall be prohibited. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which the district, the state or EPA has notified the user is a fire hazard or a hazard to the system;

B. Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: grease, garbage with particles greater than three-eighths inches in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes;

C. Any wastewater having a pH less than 5.0 or more than 12.0 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment and/or personnel of the POTW;

D. Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW or exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to Section 307(a) of the Act;

E. Any noxious or malodorous liquids, gases or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair;

F. Any substance which may cause the POTW's effluent or any other product of the POTW, such as residues, sludges or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act or state criteria applicable to the sludge management method being used;

G. Any substance which will cause the POTW to violate its NPDES/UPDES permit or the receiving water quality standards;

H. Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions;

I. Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature which exceeds one hundred forty (140) degrees Fahrenheit at the POTW treatment plant;

J. Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which will cause interference to the POTW;

K. Any wastewater containing any radioactive wastes or isotopes of such halflife or concentration as may exceed limits established by the district in compliance with applicable state or federal guidelines;

L. Any wastewater containing pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in quantities which cause a hazard to human life or workers' health or safety or creates a public nuisance;

M. Petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through; or

N. Any trucked or hauled pollutants, except at discharge points designated by the POTW.

When the district determines that a user is contributing to the POTW any of the above enumerated substances in such amounts as to interfere with the operation of the POTW, the district shall: (1) advise the user(s) of the impact of the contribution on the POTW; and (2) develop effluent limitations for such user to correct the interference with the POTW. (Prior code § 6-12-4)

13.16.120 Federal Categorical Pretreatment Standards.

Upon the promulgation of the Federal Categorical Pretreatment Standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this article for sources in that subcategory, shall immediately supersede the limitations imposed under this article.

The district shall notify all affected users of the applicable reporting requirements under 40 CFR, Section 403.12. (Prior code § 6-12-5)

13.16.130 Modification of Federal Categorical Pretreatment Standards.

If the district's wastewater treatment system achieves consistent removal of pollutants limited by Federal Pretreatment Standards, the district may apply to the approval authority for modification of specific limits in the Federal Pretreatment Standards. If approval is granted by the approval authority, the district may then modify pollutant discharge limits in the Federal Pretreatment Standards pursuant to the approval and the provisions of this article shall be considered modified in conformity thereto. (Prior code § 6-12-6)

13.16.140 District's right of revision.

The district shall have the right to establish by resolution more stringent limitations of requirements or discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in Section 13.16.080. (Prior code § 6-12-7)

13.16.150 Excessive discharge.

No user shall ever increase the use or quantity of water, process water, or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards or in any other pollutant-specific limitation developed by the district or state. (Prior code § 6-12-8)

13.16.160 Accidental and slug discharge.

Each user shall provide protection from accidental and slug discharges or prohibited materials or other substances regulated by this article. Facilities to prevent accidental or slug discharges or prohibited materials shall be provided and maintained at the owner's or user's own cost and expense.

Detailed plans showing facilities and operating procedures to provide this protection shall be submitted by all significant industrial users to the district for review, and shall be approved by the district before construction of the facility. All significant industrial users shall complete such a plan by the date specified on the discharge permit. No significant industrial user who commences contribution to the POTW after the effective date of this article shall be permitted to introduce pollutants into the system until accidental and slug discharge procedures have been approved by the district.

An accidental or slug discharge control plan shall include as a minimum:

A. A description of discharge practices, including nonroutine batch discharges;

B. A description of stored chemicals;

C. Procedures for immediately notifying the POTW of accidental or slug discharges, including any discharge that would violate a specific prohibition, with procedures for follow-up written notification within five days; and

D. If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents) and/or measures for emergency response.

The district shall review all accidental and slug control plans at least every two years to determine the plans' continuing adequacy. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility of notifying the user's facility as necessary to meet the requirements of this article. In the case of an accidental or slug discharge, it is the responsibility of the user to immediately telephone and notify the district of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective action. (Prior code § 6-12-9)

13.16.170 Written notice.

Within five days following an accidental discharge, the user shall submit to the district a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills or any other damage to person or property, nor shall such notification relieve the user of any fines, civil penalties or other liability which may be imposed by this article or other applicable law. (Prior code § 6-12-10)

13.16.180 Notice to employees.

A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge.

Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure. (Prior code § 6-12-11)

13.16.190 Wastes from industrial sites discharged to a POTW by truck, rail, or dedicated pipeline.

Haulers of septic waste removed from residential customers are subject to the terms and conditions for discharge as contained in Section 13.16.180. Only wastes from residential sewage disposal systems (i.e., septic tank waste, cesspool waste and residential holding tanks) may be discharged into the public sewer system by waste haulers at the discharge point specified by the South Davis County sewer improvement district. Only septage from residential units located within the boundaries of the South Davis County sewer improvement district may be discharged to district facilities. Any wastes, including septic wastes, removed by a hauler from non-residential, industrial or commercial customers are specifically prohibited and may not be discharged into the public sewer system. Discharge of such nonresidential wastes into the public sewer system will constitute a violation and will subject the hauler to the penalties provided for in Sections 13.16.350 and 13.16.360. (Prior code § 6-12-12)

13.16.200 Domestic waste haulers.

The hauling of septage wastes to the public sewer system shall require a permit from the South Davis County sewer improvement district. Permitted haulers shall be responsible for complying with all the terms and conditions contained in the permit, in addition to Section 13.16.170.

Any person discharging into the public sewer system without a permit or in violation of a valid permit will be subject to the penalties provided for in Sections 13.16.350 and 13.16.360. (Prior code § 6-12-13)

13.16.210 Fees.

A. Purpose. It is the purpose of this section to provide for the recovery of costs from users of the district's wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth by the district's schedule of charges and fees.

B. Charges and Fees. The district may adopt charges and fees which may include:

1. Fees or charges for the special treatment of industrial wastes whose volume or characteristics exceed the normal wastewater standards of the district or would impose an unreasonable burden upon the district's collection system or treatment facilities;

2. Fees for monitoring, inspections and surveillance procedures;

3. Fees for reimbursement of costs of setting up and operating the district's pretreatment program;

4. Fees for reviewing accidental discharge procedures and construction;

5. Fees for permit applications;

6. Fees for filing appeals;

7. Fees for consistent removal by the district of pollutants otherwise subject to pretreatment standards; and

8. Other fees as the district may deem necessary to carry out the requirements contained herein. (Prior code § 6-12-14)

13.16.220 Wastewater discharges.

It is unlawful for any significant industrial user within the city to discharge without a district permit, or for any user to discharge to the POTW any wastewater except as authorized by the district in accordance with the provisions of this article. The district shall have authority to establish program procedures necessary to accomplish the objectives of this article. (Prior code § 6-12-15)

13.16.230 Wastewater discharge permits.

A. General Permits. All significant industrial users proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW.

All existing significant industrial users connected to or contributing to the POTW shall obtain a wastewater discharge permit within one hundred eighty (180) days after the effective date of this article. The district shall have the authority to require wastewater discharge permits from any industrial user which: (1) has the potential of becoming a significant industrial user; or (2) otherwise contributes pollutants which may pass through the POTW inadequately treated, interfere with the operation of the POTW or contaminate the sewage sludge.

B. Permit Application. Significant industrial users required to obtain a wastewater discharge permit shall complete and file with the district an application in the form prescribed by the district and accompanied by a fee as outlined in the district's schedule of fees and charges.

Existing significant industrial users shall apply for a wastewater discharge permit within thirty (30) days after the effective date of the article and proposed new significant industrial users shall apply at least

ninety (90) days prior to connecting to or contributing to the POTW. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

1. Name, address and location (if different from the address);

2. SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;

3. Wastewater constituents and characteristics, including, but not limited to, those mentioned in Sections 13.16.110 through 13.16.200, inclusive, as determined by a reliable analytical laboratory. Sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(h) of the Act and contained in 40 CFR, Part 136, as amended;

4. Time and duration of contributions;

5. Average daily and three-minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any;

6. Site plans, floor plans, mechanical and plumbing plans and details showing all sewers, sewer connections and appurtenances by the size, location and elevation;

7. Description of activities, facilities and plant processes on the premises, including all materials which are or could be discharged;

8. When known, the nature and concentration of any pollutants in the discharge which are limited by any district, state or federal pretreatment standards and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards;

9. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:

a. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.),

b. No increment referred to in subdivision (9)(a) of this subsection shall exceed nine months,

c. No later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the district including, as

a minimum, whether or not it complied with the increment of progress to be met on such date and if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the district;

10. Each product produced by type, amount, process or processes and rate of production;

11. Type and amount of raw materials processed (average and maximum per day);

12. Number and type of employees and hours of operation of plant and proposed or actual hours of operation of pretreatment system; and

13. Any other information as may be deemed by the district to be necessary to evaluate the permit application.

The district will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the district may issue a wastewater discharge permit subject to terms and conditions provided herein.

C. Permit Modification. Within nine months of the promulgation of a National Categorical Pretreatment Standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. When a user, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for a wastewater discharge permit as required by Section 13.16.130, the user shall apply for a wastewater discharge permit within one hundred eighty (180) days after the promulgation of the applicable National Categorical Pretreatment Standard. In addition, the user with an existing wastewater discharge permit shall submit to the district within one hundred eighty (180) days after the promulgation of an applicable Federal Categorical Pretreatment Standard the information required by subsections (B)(8) and (9) of this section.

D. Permit Conditions. Wastewater discharge permits shall be expressly subject to all provisions of this article and all other applicable regulations, user charges and fees established by the district. Permits will contain the following:

1. The unit charge or schedule of user charges and fees for the wastewater to be discharged to the district's sewer;

2. Limits on the average and maximum wastewater constituents and characteristics, based on applicable general pretreatment standards, categorical pretreatment standards, local limits and state and local laws;

3. Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;

4. Requirements for installation and maintenance of inspection and sampling facilities;

5. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule, based on applicable general pretreatment standards, categorical pretreatment standards, local limits and state and local laws;

6. Compliance schedules;

7. Requirements for submission of technical reports or discharge reports (see Section 13.16.240);

8. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the district and affording district access thereto;

9. Requirements for notification of the district of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;

10. Requirements for notification of slug discharges;

11. Other conditions as deemed appropriate by the district to ensure compliance with this article; and

12. Applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.

E. Duration of Permit. Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of one hundred eighty (180) days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the district during the term of the permit as limitations or requirements as identified in Section 13.16.110 through 13.16.200, inclusive, are modified or other just cause exists. The user shall be informed of any proposed changes in his or her permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

F. Per mit Transfer. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned, transferred or sold to a new owner, new user, different premises or a new or changed operation. (Prior code § 6-12-16)

13.16.240 Reporting requirements for permittee.

A. Compliance Date Report. Within ninety (90) days following the date for final compliance with applicable pretreatment standards or in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the district a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user's facility which are limited by such pretreatment standards or requirements. The report shall state whether the

applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user and certified by a qualified professional.

B. Periodic Compliance Reports.

1. All significant industrial users, after the compliance date of such pretreatment standard or in the case of a new source, after commencement of the discharge into the POTW, shall submit to the district during the months of June and December, unless required more frequently in the pretreatment standard or by the district, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported in Section 13.16.230(A). At the discretion of the district and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the district may agree to alter the months during which the above reports are to be submitted.

2. The district may impose mass limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations are appropriate. In such cases, the report required by Subsection (B)(1) of this section shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass when requested by the district of pollutants contained therein which are limited by the applicable pretreatment standards.

The frequency of monitoring shall be prescribed in the applicable pretreatment standard. All analysis shall be performed in accordance with procedures established by the administrator pursuant to Section 304 (h) of the Act and contained in 40 CFR, Part 136, and amendments thereto or with any other test procedures approved by the administrator. Sampling shall be performed in accordance with the techniques approved by the administrator.

(NOTE: Where 40 CFR, Part 136, does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants, April 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the administrator.) (Prior code § 6-12-17)

13.16.250 Monitoring facilities.

The district shall require to be provided and operated at the user's owner expense, monitoring facilities to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility shall be situated on the user's premises and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

The sampling and monitoring facilities shall be provided in accordance with the district's requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety (90) days following written notification by the district. (Prior code § 16-12-18)

13.16.260 Records retention.

All significant industrial users subject to this article shall retain and preserve for no less than three years, any records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling and chemical analysis made by or in behalf of a user in connection with its discharge. All records which pertain to matters which are the subject of administrative adjustment or any other enforcement or litigation activities brought by the city or the district pursuant hereto shall be retained and preserved by the user until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

If after monitoring, sampling and testing, etc., the district's industrial pretreatment coordinator deems it necessary that the user pretreat his or her effluent in order to comply with this article, he or she shall do so at his or her own expense and according to the compliance schedule established for the user after being so instructed by the district. (Prior code § 6-12-19)

13.16.270 Inspection and sampling.

The district may inspect the facilities of any user to ascertain whether the purpose of this article is being met and all requirements hereof are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the district's representatives ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or the performance of any of their duties. In the event the district is refused admission for such purposes, the district may cause sewer service to the premises to be discontinued until reasonable access is provided. The district shall also be permitted to make copies of such of the user's records as are necessary for the proper enforcement of this article. The district's approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. At the request of the district, but at user's expense, the user shall do such monitoring and testing, inspection or sampling as the district deems necessary to assure compliance with this article. The results of all such activities shall be made immediately available to the district if requested. When a user has security measures in force which would require proper identification and clearance before entry into his or her premises, the user shall make necessary arrangements with his or her security guards so that upon presentation of suitable identification, personnel from the district approval authority and EPA will be permitted to enter, without delay, for the purpose of performing their specific responsibilities. (Prior code § 6-12-20)

13.16.280 Pretreatment.

Users shall provide necessary wastewater pretreatment or treatment as required to comply with this article and shall achieve compliance with all Federal Categorical Pretreatment Standards within the time limitations specified by the Federal Pretreatment Regulations. Any facilities required to pretreat wastewater to a level acceptable to the district shall be provided, operated and maintained continuously in satisfactory and effective operation at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be acceptable to the district before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the district under the provisions of this article. Any subsequent changes in

the pretreatment facilities or method of operation shall be reported to and be acceptable to the district prior to the user's initiation of the changes.

The district shall annually publish in the local newspaper a list of the users which were in significant noncompliance with any pretreatment requirements or standards during the twelve (12) previous months. The notification shall also summarize any enforcement actions taken against the user during the same twelve (12) month period. All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or district approval authority upon request. (Prior code § 6-12-21)

13.16.290 Confidential information.

Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be availab le to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the district that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets or secret processes shall not be made available for inspection by the public. However, these shall be made available upon written request to governmental agencies for uses related to this article, or the National Pollutant Discharge Elimination System (NPDES) Permit; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the district as confidential shall not be transmitted to any governmental agency or to the general public by the district until and unless a ten (10) day notification is given to the user. (Prior code § 6-12-22)

13.16.300 Enforcement authority.

These rules and regulations and administrative procedures established subsequent to this article are adopted by the city pursuant to state law, city and county ordinances, rules and regulations, including, but not limited to, Title 17A, Chapter 2, Part 3 and Title 19, Chapter 11-5 of the Utah Code Annotated 1953, as amended, for the purpose of enforcing the provisions contained herein.

The city may take appropriate enforcement actions in accordance with its enforcement response program as adopted and as amended periodically. (Prior code § 6-12-23)

13.16.310 Administrative enforcement.

In responding to any violations of these rules and regulations, an industrial user's discharge permit and any other applicable laws, rules or regulations, the district may incorporate and pursue one or more of the following administrative enforcement actions and/or remedies. Nothing contained herein shall be deemed to preclude the district from utilizing one or more enforcement responses as part of its enforcement process. (Prior code § 6-12-24)

13.16.320 Harmful contributions.

The district may suspend the wastewater treatment service and/or a wastewater discharge permit when such suspension is necessary, in the opinion of the district, to prevent an actual or threatened discharge which

presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW or causes the district to violate any condition of its NPDES/UPDES permit.

Any person notified of a suspension of the wastewater treatment service and/or the wastewater discharge permit shall immediately stop or eliminate the discharge.

In the event of a failure of the person to comply voluntarily with the suspension order, the district shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The district shall reinstate the wastewater discharge permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the district within fifteen (15) days of the date of occurrence. (Prior code § 6-12-25)

13.16.330 Revocation of permit.

Any user who violates the conditions of this article or applicable state and federal regulations, is subject to having his or her permit revoked in accordance with the procedures of Sections 13.16.190 through 13.16.350 of this article. The following acts or omissions shall be grounds for revocation of a permit:

A. Failure to factually report the wastewater constituents and characteristics of his or her discharge;

B. Failure to report significant changes in operations or wastewater constituents and characteristics;

C. Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring;

D. Failure to submit, within thirty (30) days of due date, self-monitoring report data as required in the user's wastewater discharge permit; and/or

E. Violations of any conditions of the permit, any conditions or provisions of this article or any final judicial order entered with respect thereto. (Prior code § 6-12-26)

13.16.340 Notification of violation.

Whenever the district finds that any user has violated or is violating any provision of this article, his or her wastewater contribution permit, or any prohibition, limitation or requirement contained herein, the district shall serve upon such person a written notice stating the nature of the violation. Within thirty (30) days of the service of such notice, the user shall respond in writing to the district, advising of his or her position with respect to the allegations and submitting a plan for the satisfactory correction thereof. (Prior code § 6-12-27)

13.16.350 Methods of notification.

Any notification required herein shall be served either personally or by registered or certified mail. (Prior code § 6-12-28)

13.16.360 Show cause hearing.

A. Notice of Hearing. When the violation of Section 13.16.340 is not corrected by timely compliance by means of administrative adjustment the district may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause before its board of trustees why the proposed enforcement action should not be taken. A written notice shall be served on the user specifying the time and place of a hearing to be held by the board regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the board why the proposed enforcement action should not be taken. The notice of the hearing shall be sent by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation, or upon any agent, officer or authorized representative of a user.

B. Conduct of Hearing. The board may conduct the hearing and take the evidence or may designate any of its members or any employee of the district to:

1. Issue in the name of the district, notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

2. Take the evidence; and

3. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the board for action thereon.

C. Order of Board. After the board has reviewed the evidence it may issue an order to the user responsible for the discharge which order shall direct that following a specified time period, the sewer service shall be discontinued unless adequate treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued. This includes consent agreements. The board or its agent are empowered to enter into consent agreements, assurances of voluntary compliance or other similar documents establishing an agreement with the person responsible for the non-compliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a specified time period; and agreed upon penalties for past and on-going violations and for failure to perform any items in the agreement.

D. Right of Appeal. Any user or any interested party shall have the right to request in writing an interpretation or ruling by the district on any matter covered by this article and shall be entitled to a prompt written reply. In the event that such inquiry is by a user and deals with matters of performance or compliance with this article for which enforcement activity relating to an alleged violation is the subject, receipt of a user's request shall stay all enforcement proceedings pending receipt of the aforesaid written reply; provided, however, that the district may nevertheless take such action as it deems necessary to prevent or minimize damage to the POTW, to the environment or to the health and welfare of persons.

E. Legal Action. If any person discharges sewage, industrial wastes or other wastes into the district's wastewater disposal system contrary to the provisions of this article, state or federal pretreatment requirements, or any order of the district, the district's attorney may commence an action for appropriate legal and/or equitable relief in the court of this county. (Prior code § 6-12-29)

13.16.370 Civil penalties.

Any user who violates any of the provisions of this article, who discharges or causes a discharge producing a deposit or obstruction, causes damage to or impairs the POTW, who is found to have violated an order of the governing body of the POTW or who fails to comply with any orders, rules, regulations and permits issued hereunder shall be liable to the district for any expenses, loss or damage caused to the POTW by such violation or discharge. The district shall bill the user for the costs incurred by the district for any testing, analysis, cleaning, repair or replacement work caused by the violation or discharge.

Refusal to pay the assessed costs shall constitute a violation of this article, enforceable under the provisions of this article or other applicable law. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the district may recover reasonable attorney's fees, court costs, court reporter's fees and other expenses of litigation by appropriate suit at law against the person found to have violated this article or the orders, rules, regulations and permits issued hereunder. Following are additional civil penalties which may apply:

A. Fines. The district shall have the authority to seek civil penalties in the amount of one thousand dollars ($1,000.00) per day for each violation by industrial users of any pretreatment standards or requirements.

B. Civil Fine Pass Through. In the event that an industrial user discharges such pollutants which cause the district to violate any condition of its NPDES/UPDES permit and the district is fined by EPA or the state for such violation, then such user shall be fully liable for the total amount of the fine assessed against the district by the EPA or the state and for all administrative costs incurred. (Prior code § 6-12-30)

13.16.380 Criminal penalties--Violating article or falsifying information.

It is unlawful and a Class B misdemeanor for any user to:

A. Intentionally, knowingly, recklessly or with criminal negligence violate any of the provisions of this article or discharge or cause a discharge into the POTW which produces a deposit or obstruction or causes damage thereto or impairs the same;

B. Knowingly make any false statements, representations or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this article or wastewater contribution permit or falsify, tamper with or knowingly render inaccurate any monitoring device or method required under this chapter;

C. Knowingly, recklessly or with criminal negligence violate any duly adopted rule or regulation of the district; or

D. Knowingly, recklessly or with criminal negligence discharge or permit or allow to be discharged into the district's sewer system any priority pollutant exceeding the limitations established by the district.

The district shall investigate and report all violations of the provision of this section within a reasonable time. When not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

The charging of a criminal offense, conviction and/or imposition of sentence shall not in any way preclude the district from pursuing civil remedies. (Prior code § 6-12-31)

13.16.390 Building permits.

For the more efficient administration of the provisions of this article and to assist the district in the administration of its wastewater control program, the district shall endeavor to secure from the building inspector of each city within the district and from Davis County, within thirty (30) days of the issuance thereof, a copy of each commercial or industrial building permit and/or business license issued by the authority. (Prior code § 6-12-32)

13.16.400 Assessment of penalties against violating industrial users.

In the event any industrial user should violate any of the terms and provisions of the fully adopted rules and regulations of the district relating to wastewater control, thereby resulting in a fine or penalty being assessed against the district or against Davis County or any city within the district by the Environmental Protection Agency or any other state or federal agency, such violating industrial user shall be responsible for payment of such penalty or fine to the district and/or city or county in the same amount of the fine or penalty levied against the district, city or county. (Prior code § 6-12-33)

Chapter 13.20 BACKFLOWS AND CROSS CONNECTIONS

Sections:

13.20.010 Purpose.

It is the purpose of this chapter to accomplish the following:

A. Protect the safe drinking water supply of the city from the possibility of contamination or pollution by requiring compliance with state and local plumbing codes, health regulations, OSHA, and other applicable industry standards for water system safety within the consumer's internal distribution system or private water system.

Compliance with these minimum safety codes will be considered reasonable vigilance for prevention of contaminants or pollutants which could backflow into the public drinking water systems;

B. Promote reasonable elimination or control of cross connections in the plumbing fixtures and industrial piping system of the consumer, as required by state and local plumbing codes, health regulations, OSHA and other applicable industry standards to assure water system safety; and

C. Provide for the administration of a continuing program of backflow prevention which will systematically and effectively prevent the contamination or pollution of all drinking water systems. (Prior code § 6-7-1)

13.20.020 Definitions.

For the purposes of this chapter, the following terms shall have the meanings set forth hereafter:

"Approved backflow assembly" means those assemblies accepted by the Utah Department of Health, Bureau of Drinking Water/Sanitation, as meeting an applicable specification or as suitable for the proposed use.

"**Auxiliary water supply**" means any water supply on or available to the premises, other than the superintendent's public water supply. These auxiliary waters may include water from another superintendent's public potable water supply or any natural source, such as a well, spring, river, stream, harbor, etc., or "used waters" or "industrial fluids."

These waters may be contaminated or polluted or they may be objectionable and constitute an unacceptable water source over which the water superintendent does not have authority for sanitary control.

"**Backflow**" means the reversal of the normal flow of water caused by either backpressure or back-siphonage.

"**Backflow prevention assembly**" means an assembly or means designed to prevent backflow. Specifications for backflow prevention assemblies are contained in the Utah Plumbing Code, Chapter 10 (Appendix J), and the Cross Connection Control Program for Utah.

"**Back-pressure**" means the flow of water or other liquids, mixtures or substances under pressure into the feeding distribution pipes of a potable water supply system from any source other than the intended source.

"**Back-siphonage**" means the flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply system from any source other than the intended source, caused by the reduction of pressure in the potable water supply system.

"**Contamination**" means a degradation of the quality of the potable water supply by sewage, industrial fluids or waste liquids, compounds or other materials.

"**Cross connection**" means any physical connection or arrangement of piping or fixtures which may allow nonpotable water or industrial fluids or other material of questionable quality to come in contact with potable water inside a distribution system.

This would include any temporary connections, such as swing connections, removable sections, four way plug valves, spools, dummy sections of pipe, swivel or changeover devices or sliding multiport tubes or other plumbing arrangements.

"**Cross connection--containment**" means the installation of an approved backflow assembly at the water service connection to any customer's premises where it is physically and economically infeasible to find and permanently eliminate or control all actual or potential cross connections within the customer's water system; or the installation of an approved backflow prevention assembly on the service line leading to and supplying a portion of a customer's water system where there are actual or potential cross connections which cannot be effectively eliminated or controlled at the point of the cross connection (isolation).

"**Cross connection--controlled**" means a connection between a potable water system and a nonpotable water system with an approved backflow prevention assembly properly installed and maintained so that it will continuously afford the protection commensurate with the degree of hazard.

"**Water superintendent**" means the person designated to be in charge of the water department of the city who is invested with the authority and responsibility for the implementation of an effective cross connection control program and for the enforcement of the provisions of this chapter. (Prior code § 6-7-2)

13.20.030 City responsibility.

A. Drinking water system surveys/inspections of the consumer's water distribution system shall be conducted or caused to be conducted by individuals deemed qualified by and representing the city. Survey records shall indicate compliance with the aforementioned health and safety standards. All such records will be maintained by the city.

B. The city shall notify all consumers in writing of the need for periodic system surveys to insure compliance with existing applicable minimum health and safety standards.

C. The selection of an approved backflow prevention assembly for containment control required at the service entrance shall be determined from the results of the system survey. (Ord. 263-99 (part); prior code § 6-7-3)

13.20.040 Consumer responsibility.

A. Compliance with this chapter as a term and condition of supply and consumer's acceptance of service is admittance of his or her awareness of these provisions.

B. It shall be the responsibility of the consumer to purchase, install, test and maintain any backflow prevention device or assembly required to comply with this chapter. (Prior code § 6-7-4)

13.20.050 Plumbing official responsibility.

A. The water superintendent of the city shall be the plumbing official and shall have the responsibility to enforce the applicable sections of the plumbing code beginning at the point of service (downstream or consumer side of the meter) and continuing throughout the developed length of the consumer's water system.

B. The water superintendent will review all plans to ensure that unprotected cross connections are not an integral part of the consumer's water system. If a cross connection cannot be eliminated, it must be protected by the installation of an air gap or an approved backflow prevention device/assembly, in accordance with the Utah Plumbing Code.

C. Water vacating the drinking water supply must do so via approved air gap or approved mechanical backflow prevention assembly, properly installed and in accordance with the Utah Plumbing Code. (Prior code § 6-7-5)

13.20.060 Certified backflow assembly technicians', surveyors' or repair persons' responsibilities.

A. Whether employed by the consumer or the city or any utility to survey, test, repair or maintain backflow prevention assemblies, the certified backflow technicians, surveyors, or repair persons will have the following responsibilities:

1. To insure that acceptable testing equipment and procedures are used for testing, repairing or overhauling backflow prevention assemblies;

2. To make reports of such testing and/or repair to the consumer, water superintendent, and the Bureau of Drinking Water/Sanitation on forms approved for such use by the Bureau of Drinking Water/Sanitation, and within the time frames prescribed by the Bureau. Such report shall include the list of materials or replacement parts used;

3. To insure that replacement parts are equal in quality to parts originally supplied by the manufacturer of the assembly being repaired;

4. To insure that the design, material or operational characteristics of the assembly are not changed during testing, repair or maintenance;

5. To determine that a certified technician shall perform all tests of the mechanical devices/assemblies and shall be responsible for the competence and accuracy of all tests and reports;

6. To insure that the certified technician's license is current, and that the testing equipment being used is acceptable to the state and is in proper operating condition;

7. To be equipped with and be competent to use all necessary tools, gauges, and other equipment necessary to properly test and maintain backflow prevention assemblies; and

8. To insure that the certified technician conducting the test tag each double check valve, pressure vacuum breaker, reduced pressure backflow assembly and high hazard air gap, showing the serial number, date of the test, and the name and license number of the technician conducting the test.

B. In the case of a consumer requiring a commercially available technician, any certified technician is authorized to make the test and the report the results of that test to the consumer, water superintendent, and the Bureau of Drinking Water Sanitation. If such a commercially tested assembly is in need of repair, such repair will be made in accordance with UCA 58-56-4, UAC Rules 156-56-701(1)(b)--(f). (Ord. 264-00 (part); prior code § 6-7-6)

13.20.070 Policy and requirements.

A. No water service connection to any premises shall be installed or maintained by the public water superintendent unless the water supply is protected as required by state laws, regulations, codes and this chapter. Service of water to a consumer found to be in violation of this chapter shall be discontinued by the water superintendent after due process of written notification of violation and an appropriate time suspension for voluntary compliance if:

1. A backflow prevention assembly required by this chapter for control of backflow and cross connections is not installed, tested, and maintained;

2. If it is found that a backflow prevention assembly has been removed or by-passed;

3. If an unprotected cross connection exists on the premises; or

4. If the periodic system survey has not been conducted, service will not be restored until such conditions or defects are corrected.

B. The customer's system shall be open for inspection at all reasonable times to authorized representatives of the water superintendent to determine whether cross connections or other structural or sanitary hazards, including violation of this chapter, exist and to audit the results of the survey required by Section 13.20.030(B).

C. Whenever the public water superintendent deems a service connection's water usage contributes a sufficient hazard to the water supply, an approved backflow prevention assembly shall be installed on the service line of the identified consumer's water system, at or near the property line, or immediately inside the building being served, but in all cases, before the first branch leading off the service line. The type of protective assembly required shall depend upon the degree of hazard which exists at the point of cross connection (whether direct or indirect), applicable to local and state requirements or resulting from the required survey.

D. All presently installed backflow prevention assemblies which do not meet the requirements of this section, but were approved assemblies for the purposes described herein at the time of installation and which have been properly maintained, shall, except for the inspection and maintenance requirements set forth in subsection E of this section, be excluded from the requirements of these rules so long as the water superintendent is assured that they will satisfactorily protect the public water system. Whenever the existing assembly is moved from the present location, or requires more than minimum maintenance, or when the water superintendent finds that the operation or maintenance of this assembly constitutes a hazard to health, the unit shall be replaced by an approved backflow prevention assembly meeting the local and state requirements.

E. It shall be the responsibility of the consumer at any premises where backflow prevention assemblies are installed to have certified surveys, inspect ions, and operational tests made at least once per year at the consumer's expense. In those instances when the public water superintendent deems the hazard to be great, he or she may require certified surveys, inspections and tests at a more frequent interval. It shall be the duty of the public water superintendent to see that these tests are made according to the standards set forth by the State Department of Health, Bureau of Drinking Water/Sanitation.

F. All backflow prevention assemblies shall be tested within ten working days of initial installation.

G. No backflow prevention assembly shall be installed so as to create a safety hazard, i.e., installed over an electrical panel, steam pipes, boilers, pits, or above ceiling level. (Prior code § 6-7-7)

13.20.080 Violations--Penalties.

If violations of this chapter exist, or if there has not been any corrective action taken by the consumer within ten (10) days of the written notification of deficiencies noted within the survey, the public water superintendent shall deny or immediately discontinue service to the premises by providing a physical break in the service line until the customer has corrected the condition in conformance with the state and city statutes relating to plumbing, safe drinking water supplies, and the regulations adopted pursuant thereto. (Prior code § 6-7-8)

Chapter 13.30 STORM SEWER UTILITY

Sections:

13.30.010 Purpose.

The purposes and objectives of this chapter are to (a) provide and maintain an adequate storm sewer system for handling storm water runoff; (b) provide fair, equitable and non-discriminatory rates for using the storm

sewer collection system which user fees will generate sufficient revenues for operating, improving and maintaining the storm sewer utility adequately; after considering such factors as: 1. Types of development on land parcels; 2. Cost of maintaining, operating, repairing, and improving the system; 3. Cost of compliance with the Utah Pollutant Discharge Elimination System (UPDES) permit; 4. Quantity and quality of run-off generated; and 5. Other factors that are considered from time to time.; and (c) Establish standards and guidelines for the discharge of storm sewer water which comply with the UPDES permit.

13.30.020 Definitions.

For the purpose of this chapter, the following terms, phrases and words shall mean:

"**City**"-- West Bountiful City

"**County**" – Davis County

"**Council**" – West Bountiful City Council

"**Customer**" – Any individual; public or private corporation and its officers; partnerships; associations; firm; trustee; executor of an estate; the State of Utah or its departments; institutions; bureaus; agencies; county; city; political subdivision; or any other governmental or legal entity recognized by law.

"**Equivalent Residential Unit (ERU)** – An ERU is equal to 4460 square feet of impervious surface area. This is based on a single-family residential parcel, which has an average of 4460 square feet of impervious surface.

"**Impervious Surface**" – A parcel's hard surface area that causes water to run off it's surface in quantities or speeds greater than under natural vegetative covered conditions. Some examples for impervious surfaces are rooftops, concrete or asphalt paving, walkways, patios, driveways, parking lots, storage areas and compacted gravel surfaces.

"**Mitigation**" – Storm sewer control facilities located on a parcel, which either holds runoff for a short period of time before releasing it to the storm sewer system, or holds water until it evaporates or infiltrates into the ground.

"**Parcel**" – The smallest, separately segregated unity of land having an owner. A parcel has boundaries and surface area and is documented with a property identification number by the County.

"**Developed Parcel**" – Any parcel whose surface has been altered by grading, filling or construction of any improvement.

"**Utah Pollutant Discharge Elimination System (UPDES)**" – The provisions of the Federal Clean Water Act, administered by the State of Utah, Division of Water Quality through either a General Permit or a Co-Permit"

"**Single Family Residential Parcel**" – Any parcel of land containing a single family dwelling unit.

"**Storm Sewer" or "Storm Water**" – Water produced by storms, surface drainage, snow and ice melt, and other water handled by or introduced into the storm sewer system.

"**Storm Sewer System**" – All man-made storm drainage facilities and conveyances, and natural drainage channels owned and maintained by the City that store, convey, control, treat and/or collect storm water.

"**Storm Sewer Facility**" – Any facility, improvement, development, or property made for controlling storm water quantity and quality.

"**Storm Sewer Utility**" or "**Utility**" – The utility created by ordinance to operate, maintain, and improve the storm sewer facilities and programs of West Bountiful City.

"**Undeveloped Parcel**" – Any parcel that has not been altered by grading, filling, or construction.

13.30.030 Utility Facilities and Asset operations and maintenance.

The Utility shall operate, maintain, and improve all facilities that comprise and make up the storm sewer system beginning at a point where the storm water enters the storm sewer system of the city and ending at a point where the storm water exits to a County owned channel or facility, or where the storm water exits to water of the State of Utah. The Utility does not maintain government owned streets, pipes, channels, facilities operated by the County, State of Utah or other governmental agencies.

13.30.040 Service fee and connection fees rates.

A. The connection fee for residential and commercial developments shall be established by resolution as defined in Chapter 16.28.130 of the City code.

B. Service fees for residential and commercial developments shall be established by resolution from time to time by the City Council.

(1.) The fee shall be imposed on each developed parcel of real property within the City.

a. Exceptions – Public School parcels, Public and Quasipublic buildings, governmentally-owned streets; industries and applications that have a qualifying Phase I NPDES discharge permit.

(2.) Single Family Residential parcels shall each be considered one ERU regardless of the development zone designation or the amount of impervious surface.

(3.) The ERU for other parcels shall be computed by dividing the total square footage of impervious surface by the residential ERU of 4460, rounded to the nearest whole number.

C. Credit for on-site or on-parcel mitigation shall be as follows:

(1.) Non-residential parcels which provide on-site storm water mitigating features which control either the peak discharge rate or the daily load of pollutant discharge or both shall be eligible for a service fee credit.

(2.) The credit shall be based on the formula P = 4 5 + 3 0 (Q r / Q p) + 2 5 (1 -(Af)/Ai), where P is the percentage applied to the ERU assessment, 45 is the percentage representing the fixed

Utility operations and maintenance fee, 30 is the percentage representing capital improvement costs, 25 is the percentage representing pollution treatment costs, Qr is the restricted storm water discharge rate, Qp is the peak discharge rate without restriction, Af is the area of filtration provided in mitigation improvements and Ai is the total approved area containing mitigation.

The credit percentages may be adjusted from time to time as determined by the City Engineer.

(3.) Credit may be given for participation in a regional mitigation improvement based on the same percentage presented in paragraph (2) above.

13.30.050 Billing for utility service.

The fee shall be paid as defined in Chapter 13.04.090 of the City Code.

13.30.060 Approved discharge to the storm sewer system.

The only substance which may be discharged to the City's storm sewer system is storm water from surface drainage, subsurface drainage, groundwater, roof drainage, and non-polluted cooling water. Such water may be discharged only into systems with adequate capacity to accommodate such water as determined by the City Engineer. Such water shall comply with quality standards of this chapter.

13.30.070 Regulations.

A. The City Council shall establish by resolution such regulations governing the storm sewer system of the city, the manner of making connections to the system, the materials to be used in the system, the quality of discharge from approved connections, and other regulations as may be necessary for the operation of the storm sewer system. The regulations shall include all parts of the Storm Water Management Plan (SWMP) required as part of UPDES permit application.

B. In the absence of a duly appointed storm sewer superintendent, the public works director or his or her agent shall act in the place of the superintendent.

Title 14 – Reserved

Title 15 BUILDINGS AND CONSTRUCTION

Chapters:

Chapter 15.04 INTERNATIONAL CODE COMMISSION CODES

Sections:

15.04.010 Technical codes adopted.

A. This section is enacted for the purpose of conforming to and supplementing the provisions of Section 58-56-4, Utah Code Annotated, and shall be interpreted to conform to the provisions of that section.

B. Except when they are in conflict with the provisions of Section 58-56-4, Utah Code Annotated, and the technical codes adopted therein, the following technical codes are adopted by this reference as ordinances of West Bountiful City.

1. International Building Code. The most recent version of the International Building Code adopted by the State of Utah, together with the most recent version of the International Building Code Standards adopted by the State of Utah, is adopted as the building code of West Bountiful City.

2. Plumbing Code. The most recent version of the International Plumbing Code adopted by the State of Utah, including all installation standards is adopted as the plumbing code of West Bountiful City.

3. International Mechanical Code. The most recent version of the International Mechanical Code adopted by the State of Utah is adopted as the mechanical code of West Bountiful City.

4. National Electrical Code. The most recent version of the National Electrical Code adopted by the State of Utah is adopted as the electrical code of West Bountiful City.

5. International Energy Conservation Code. The most recent version of the International Energy Conservation Code adopted by the State of Utah is adopted as the energy conservation code for West Bountiful City.

6. International Property Maintenance Code. The most recent version of the International Property Maintenance Code, as adopted by the State of Utah, for the Abatement of Dangerous

Buildings published by the International Conference of Building Officials is adopted as the abatement of dangerous buildings code of West Bountiful City.

7. International Fire Code. The most recent version of the International Fire Code adopted by the State of Utah, including Appendixes and Standards thereof, adopted by the State of Utah is adopted as the fire code of West Bountiful City.

8. International Residential Code. The most recent version of the International Residential Code adopted by the State of Utah is adopted as the residential code of West Bountiful City.

C. The West Bountiful building inspector shall be the principal enforcement officer with respect to each of the technical codes described above, except that the fire marshal of the South Davis Metro Fire District shall be the principal enforcement officer with respect to the International Fire Code.

D. It is unlawful to perform any work regulated by the technical codes described above without first obtaining a required permit, including the payment of any required fee.

E. The violation of any provision of the technical codes described above shall be unlawful and punishable as a Class B misdemeanor. (Ord. 264-00 (part); Ord. 239-95 (part)

Chapter 15.08 BUILDING PERMITS

Sections:

15.08.010 Building inspector authorized to enforce regulations.

The building inspector of the City is authorized and responsible to enforce all building regulations which may be adopted by the City Council from time to time.

15.08.020 Building permit.

A. 1. No building or structure shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished unless a separate permit for each building or structure has first been obtained from the City.

2. Each building permit application shall include a site plan and such other information as may be required by the West Bountiful Municipal Code. (Ord. 330-11)

B. Any person obtaining a building permit as required by the West Bountiful Municipal Code shall display or cause to be displayed continuously in a conspicuous place on the job site, the building permit application and inspection card affixed to the reverse side thereof, together with the notice furnished by the city, stating in bold letters, "IT IS UNLAWFUL TO OCCUPY THIS BUILDING PRIOR TO FINAL INSPECTION," until the final inspection has been completed and a written final approval is issued by the building inspector covering the premises for which the building permit was issued.

C. No person shall sell or transfer ownership of a building or structure for which a building permit has been issued to him or her or his or her agent before a final inspection has been made and final approval issued therefor by the building inspector unless he or she shall in writing inform the purchaser or person to whom ownership shall be transferred, whether by deed or pursuant to contract of sale, that such final inspection and final approval are required prior to occupancy or use of such building or structure.

D. In all zoning districts of the City, the size and shape of the lot or tract, the location of main and accessory buildings on the site and in relation to one another, the traffic circulation features within the site, the height and bulk of buildings, the provision of off street parking space, the provision for driveways for ingress and egress, the provision of other open space on the site, drainage patterns, and the display of signs shall be in accordance with a site plan or plans or subsequent amendment thereof, approved in any case by the land use authority prior to issuance of a building or land-use permit, except that when the application for a building permit involves only a single family residence, the land use authority may reduce the detail required in the site plan. In approving site plans the land use authority may act on a site plan submitted to it or may act on its own initiative in proposing and approving a site plan, including any conditions or requirements designated or specified or in connection therewith. A site plan may include landscaping, fences, and walls designed to further the purposes of the regulations for commercial, manufacturing, trailer, and multiple residential zones, and such features shall be provided and maintained as a condition of the establishment and maintenance of any use to which they are appurtenant. In considering any site plan hereunder the land use authority shall endeavor to assure safety and convenience of traffic movements both within the area covered and in relation among the buildings and uses in the area covered, and satisfactory and harmonious relation between such area and contiguous land and building and adjacent neighborhoods. (Ord. 330-11)

E. All finished floor elevations on buildings constructed within the city shall be at least twelve (12) inches above the curb, or street, or proposed street, level adjacent to the building except when otherwise approved by the city engineer and city council. Below floor or crawl space area shall not exceed 48 inches in height as measured from the bottom of the supporting floor member to the top of the finished ground surface. Below floor or crawl space area shall not exceed 60 inches in height as measured from the bottom of the supporting floor structure to the top of a finish floor where the finish floor is one foot or above the curb or street elevation. Below floor or crawl space area, which is located below the street or curb elevation is not considered to be finished floor area and is not approved for domestic use including storage.

F. Reductions to standard setbacks due to fire rating of an accessory structure are subject to a building permit regardless of structure size or use.

G. A building permit shall *not* be required for the following:

1. One-story detached accessory buildings used as tool and storage sheds, playhouses, and similar uses, provided the floor area does not exceed 200 square feet;

2. Fences not over 6 feet in height.

3. Retaining walls not over 4 feet in height measured from the bottom of the footing to the top of the wall;

4. Platforms as defined by the International Building Code, walks and driveways not more than 30 inches above grade and not over any basement or story below;

5. Painting, papering and similar finish work. (Ord. 330-11)

H. The City may require the erection of fences as a prerequisite to approval of any project or to the granting of any building permit when it is necessary to protect life or property. Such fences may be of a type and size necessary to accomplish the above stated purpose, as determined by the City consistent with Title 17.

Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of the International Building Code or West Bountiful Municipal Code.

15.08.030 Building permit fees.

A. A fee for each building permit shall be paid to the City according to the schedule established periodically by resolution of the City Council.

B. The determination of value or valuation hereunder shall be made by the building inspector. The building inspector may use bona fide bid figures from a responsible contractor or may use his or her best judgment as to the total value of all construction work for which the permit was issued, including all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire extinguishing systems and other permanent work or permanent equipment.

C. When work for which a permit is required hereunder or by any provisions of the currently adopted International Building Code is started or proceeded with prior to obtaining the permit, the fees specified in the fee schedule as set from time to time by the governing body shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of the code or these ordinances in the execution of the work nor from any other penalties prescribed herein.

In addition to the foregoing an applicant for a building permit shall pay impact, connection and improvement fees as determined periodically by resolution of the City Council. (Ord. 264-00 (part); Ord. 239-95 (part)

15.08.040 Building permit use and final approval to comply with ordinances.

Building use and final approval shall not be granted for the construction or alteration of any building or structure, or for the moving or removal of a building onto or from a lot or for the use or occupancy of a building or land if such structure, construction, alteration, moving, use or occupancy would be in violation of any of the provisions of the West Bountiful Municipal Code. Permits issued in violation of any provision hereof, whether intentional or otherwise, shall be null and void.

15.08.050 Site and off-site improvements may condition building permit approval.

The installation of curb, gutter, sidewalks, drainage culverts, and covered or fenced irrigation ditches of a type approved by the land use authority may be required on any existing or proposed street adjoining a lot on which a building is to be constructed or remodeled, or on which a new use is to be established. Such curbs, gutters, sidewalks, drainage culverts, and safety features for irrigation ditches and canals may be required as a condition of building permit approval.

15.08.060 Inspection and approval required prior to occupancy.

It is unlawful to occupy or put into use, or permit or allow others to occupy or put into use any building or structure requiring a building permit until the building inspector has inspected the same, found compliance with the West Bountiful Municipal Code, including the building code of the city, and issued final approval thereof. (Ord. 263-99 (part)

15.08.070 Building permits--Review in flood areas.

The building inspector shall review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a location that has a flood hazard, any proposed new construction or substantial improvement (including prefabricated and mobile homes) must:

A. Be designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure;

B. Use construction materials and utility equipment that are resistant to flood damage; and

C. Use construction methods and practices that will minimize flood damage.

15.08.080 Subdivision proposals--Review in flood areas.

The city engineer shall review subdivision proposals and other proposed new developments to assure that:

A. All such proposals are consistent with the need to minimize flood damage;

B. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated, and constructed to minimize or eliminate flood damage; and

C. Adequate drainage is provided so as to reduce exposure to flood hazards.

15.08.090 Water and sewer systems.

A. The city engineer shall require new or replacement water supply systems and/or sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.

B. In all cases when a proposed building or proposed use will involve the use of sewage facilities, and a connection to a public sewer system as defined by Utah State Division of Health is not available, and in all cases when a connection to a public water system approved by the Utah State Division of Health is not available, the sewage disposal system and the domestic water supply shall comply with state and local board of health requirements. Applications for a building permit shall be accompanied by a certificate of feasibility from said board or division of health. The application shall also evidence the physical presence, legal right to and availability of culinary water acceptable to the city and shall show the actual physical presence, legal right and availability of culinary water for the sole use of the proposed building use. (Ord. 330-11)

15.08.100 Board of appeals.

A. A board of appeals is created for the purpose of passing upon matters pertaining to building construction, to determine the suitability of alternative materials and methods of construction, and to provide for reasonable interpretations of the International Building Code adopted by the City and set forth in Section 113 of Chapter 1 of said Code, and to exercise such other powers as may be delegated to it by the City Council.

B. The City Council may appoint a board of appeals by resolution. The board of appeals duly appointed by the City Council shall constitute the City board of appeals and will have full authority to carry out the provision and functions set forth in Section 113 Chapter 1 of the International Building Code and any other functions and responsibilities delegated to it by the City Council. Unless so designated by resolution of the City Council, the board of appeals constituted under this section will not be an "appeal authority" for purposes of Titles 16 and 17 of the West Bountiful Municipal Code. (Ord. 330-11)

Chapter 15.12 MOVEMENT OF BUILDINGS

Sections:

15.12.010 Movement of buildings into or within the City.

No building, or part thereof, may be moved from a lot or location within or without the city to another lot or location within the city except as herein provided.

15.12.020 Compliance with zoning ordinance.

No building or substantial part thereof shall be moved into or relocated within any zone in the city unless it complies or will be made to comply with the types of buildings and uses allowed within such zone.

15.12.30 Conditional use permit required.

No building or substantial part thereof shall be moved into or within the city without applying for and obtaining a conditional use permit as provided in Chapter 17.60.

15.12.040 Additional requirements for moving.

No building or substantial part thereof shall be relocated within the city if otherwise allowed, unless all the following additional requirements are fulfilled. Prior to issuance of a permit to move the same:

A. The building is inspected in its original location by the city engineer or building inspector and found to be structurally safe and sound and in conformity with the requirements of the adopted codes of the City as stated in Chapter 15.04;

B. The new location within the City is inspected by the building inspector and found to comply with the requirements of these ordinances;

C. The foundation at the new location is constructed in accordance with the ordinances of the City prior to movement of the building or part thereof to the vicinity of the new location; and

D. A landscape plan showing proposed landscaping equal to or exceeding in percentage of landscaped area to total lot area the average of lots within three hundred (300) feet is filed with the City, together with an agreement to complete the same within eighteen (18) months from the date of the permit. The right of occupation shall be conditioned upon this agreement.

15.12.050 Conformity to requirements at new location.

Before the final approval is issued and before occupancy is allowed, the relocated building shall be made to conform to all requirements of the new location to the same extent as that of new construction on the site.

15.12.060 Movement of newly constructed buildings.

Nothing herein shall prevent the movement of newly constructed main or accessory buildings to any location when the same is accomplished in a manner achieving an end result as though the building were constructed in the first instance upon the new location; and when prior to issuance of the permit, the city engineer or building inspector finds that such end result is likely to be achieved.

15.12.070 Bond or guaranty.

Prior to issuance of the permit, the building inspector shall require a performance bond in cash or by sureties qualifying as such under the laws of the State of Utah, in the amount as set forth by resolution from time to time by the City Council, or such other amount as the planning commission shall determine reasonable and necessary to guarantee that the building will be completed in accordance with the ordinances of the City within one year. If the building cannot be so completed within one year, the bond shall be applied to the completion of the structure at the option of the City. When completion of the structure to a state of conformity cannot be had by application of the amount of the bond, plus additional sums deposited by the owner within ten (10) days of notice to deposit same or suffer destruction and removal of the building, then the bond shall be applied to the destruction and removal of the structure, at the option of the City.

Title 16 SUBDIVISIONS

Chapters:

Chapter 16.04 INTRODUCTORY PROVISIONS

Sections:

16.04.010 Purpose.

The purpose of this title, and any rules, regulations, standards and specifications adopted pursuant hereto is:

A. To promote and protect the public health, safety and general welfare;

B. To regulate future growth and development within the city in accordance with the general plan and to promote the efficient and orderly growth of the city;

C. To provide procedures and standards for the physical development of subdivisions of land and construction of buildings and improvements thereon within the city;

D. To provide for adequate light, air, and privacy; to secure safety from fire, flood and other dangers; and to prevent overcrowding of land and undue congestion of population; and

E. To provide for harmonious and coordinated development of the city, and to assure sites suitable for building purposes and human habitation. (Prior code § 8-3-1)

16.04.020 Definitions.

The following words and phrases, as used in this title, shall have the respective meanings set forth hereafter, unless a different meaning clearly appears from the context. Whenever any words or phrases used herein are not defined, but are defined in related sections of the Utah Code or in the zoning ordinances of the city, such definitions are incorporated herein and shall apply as though set forth herein in full.

"**Advisory body**" means a body of selected members that:

(a) provides advice and makes recommendations to another person or entity who makes policy for the benefit of the general public;
(b) is created by and whose duties are provided by statute or by executive order; and
(c) performs its duties only under the supervision of another person or entity as provided by statute. (Definition derived from Utah Code Ann. § 68-3-12.)

"**Affected entity**" means a county, municipality, independent special district, local district, school district, interlocal cooperation entity, specified public utility, a property owner, a property owners association, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;
(b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or
(c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.

"**Alley**" means a public way which is not intended for general traffic circulation and which generally affords a secondary means of vehicular access to abutting properties.

"**Appeal authority**" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

"**Block**" means an area of land within a subdivision entirely bounded by streets (other than alleys), freeways, railroad rights-of-way, natural barriers, or the exterior boundaries of the subdivision, or designated as a block on any recorded subdivision plat.

"**Chief executive officer**" means the:

(a) mayor in municipalities operating under all forms of municipal government except the council-manager form; or
(b) city manager in municipalities operating under the council-manager form of municipal government.

"**City engineer**" means any civil engineer duly registered in the state of Utah, appointed by the city council to accomplish the objectives of this title.

"**Collector street**" means a street, existing or proposed, of considerable continuity which serves or is intended to serve as the principal traffic way between large and separated areas or districts and which is the main means of access to the major street system.

"**Constitutional taking**" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
(b) Utah Constitution Article I, Section 22.

"**Cul-de-sac**" means a street which is designed to remain permanently closed at one end, with the closed end terminated by a vehicular turnaround.

"Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

"**Exaction**" means a condition, often in the form of impact fees, restrictive covenants or land dedication, imposed at the time of obtaining a building or other development permit used to aid the city in providing public services. Conditional requirements should comply with the standards established in Section 17.44.230 of this code.

"**General plan**" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

"**Land use application**" means an application required by a municipality's land use ordinance.

"**Land use authority**" means a person, board, commission, agency, or other body designated by the city council to act upon a land use application.

"**Land use ordinance**" means a planning, zoning, development, or subdivision ordinance of the city, but does not include the general plan.

"**Land use permit**" means a permit issued by a land use authority.

"**Legislative body**" means the city council.

"**Lot**" means a parcel or portion of land, established for purposes of sale, lease, finance, division of interest or separate use, or separated from other lands by description on a subdivision map and/or parcel map, and having frontage upon a street.

"**Lot line adjustment**" means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record.

"**Minor street**" means a street, existing or proposed, of limited continuity which serves or is intended to serve the needs of a local area.

"**Minor arterial street**" means a street, existing or proposed, which serves or is intended to serve as a major traffic way and is designated on the master plan as a controlled-access highway, major street, parkway or other equivalent term.

"**Minor collector street**" means a street, existing or proposed, which is supplementary to a collector street and of limited continuity which serves or is intended to serve the local needs of a neighborhood.

"**Minor**" or "**small subdivision**" means any real property, including condominiums, planned-unit developments, or resubdivisions, improved or unimproved, divided into three or fewer lots, all having frontage on an existing

dedicated street, either by establishing new lot lines or changing existing lot lines, for the purpose of sale, lease, transfer of title, division of interest, financing or separate use. The minor subdivision shall not require the dedication of any streets or public rights-of-way. Any such division made solely for street widening purposes shall not be considered a minor subdivision.

"**Official map**" means a map drawn by municipal authorities and recorded in a county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;
(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and
(c) has been adopted as an element of the municipality's general plan.

"**Person**" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

"**Planning commission**" means the West Bountiful planning commission, unless another planning commission is specifically named.

"**Planning director**" means the director of or consultant to the city planning commission, or any city official or other person appointed by the city council to accomplish the objectives of this title.

"**Plat"** means a map or other geographical representation of lands being laid out and prepared in accordance with Utah Code Ann. § 10-9a-603.

"**Preliminary design map**" or "**concept plan**" means a map to be submitted to the planning director prior to the filing of a preliminary plat to show the general characteristics of the proposed subdivision.

"**Preliminary plat**" means a plat showing the design of a proposed subdivision and the existing conditions in and around the subdivision. The plat need not be based upon a detailed final survey of the property, except as provided herein. However, the plat shall be graphically accurate to a reasonable tolerance.

"**Property**" means any tract, lot, parcel or several of the same collected together for purposes of subdividing.

"**Public hearing**" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

"**Public improvement**" means street work, utilities and other facilities proposed or required to be installed within the subdivision for the general use of the subdivision lot owners and for local neighborhood or community needs.

"**Public meeting**" means a meeting that is required to be open to the public under Utah Code Annotated, Title 52, Chapter 4, Open and Public Meetings Act.

"**Public works department**" means the city's public works department, acting through its authorized representatives.

"**Record of survey map**" means a map of a survey of land prepared in accordance with Utah Code Ann. § 17-23-17.

"**Sanitary sewer authority**" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

"**Special district**" means an entity established under the authority of Utah Code Annotated, Title 17A, Special Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or unit of the state.

"**Specified public utility**" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined by Utah Code Ann. § 54-2-1.

"**Standards and specifications**" means all the standard specifications and standard detailed drawings prepared by the responsible city departments and the city engineer that have been approved by resolution of the city council.

"**Street**" means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way as located within the city.

"**Subdivider**" means any person owning any tract, lot or parcel of land to be subdivided; a group of two or more persons owning any tract, lot or parcel of land to be subdivided who have given their power of attorney to one of their group or to another person to act on their behalf in planning, negotiating for, in representing or executing the purposes of the subdivision; anyone who causes land to be divided into a subdivision.

"**Subdivision**" means:

(1) Any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(a) Subdivision includes:

(i) the division or development of land whether by deed, metes and bounds description, devise and testacy, lease, map, plat, or other recorded instrument; and

(ii) except as provided in subsection (1)(b), division of land for all residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(b) Subdivision does not include:

(i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable zoning ordinance;

(ii) a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:

(A) no new lot is created; and

(B) the adjustment does not result in a violation of applicable zoning ordinances; or

(iii) a recorded document, executed by the owner of record:

(A) revising the legal description of more than one contiguous parcel of property into one legal description encompassing all such parcels of property; or

(B) joining a subdivided parcel or property to another parcel or property that has not been subdivided, if the joinder does not violate applicable land use ordinances; or

(iv) a recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance.

(c) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this definition as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance.

(2) For the purpose of this chapter, a subdivision of land shall also specifically include:

(a) The dedication of a street through or adjacent to a tract of land, regardless of area, which may create a division of lots or parcels constituting a subdivision;

(b) Resubdivision of land heretofore divided or platted into lots, sites or parcels; and

(c) Condominium projects.

"**Subdivision committee**" means a committee composed of the planning director and two other members of the planning commission.

"**Subdivision design**" means the overall layout of the proposed subdivision, including, but not limited to, the arrangement of streets and intersections, the layout and size of lots, the widths and location of easements and rights-of-way for utilities, drainage structures, sewers, the nature and location of public or semi-public facilities, programs for the preservation of natural features, and the installation of public improvements.

"**Unincorporated**" means the area outside of the incorporated area of a city or town.

"**Zoning map**" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts. (Prior code 8-3-5)

(16.04 Amended March 4th, 2008; Ord. 300-08)

Chapter 16.08 ADMINISTRATION AND ENFORCEMENT

Sections:

16.08.060 File of recorded subdivisions.

16.08.010 Scope of compliance required.

A. It is unlawful for any person to subdivide any tract or parcel of land which is located wholly or in part in the city except in compliance with this title. No plat of any subdivision shall be recorded until it has been submitted and approved as herein. A plat shall not be approved if such plat is in conflict with any provision or portion of the general plan, master street plan, zoning ordinance, this title, or any other state law or city ordinance.

B. Land shall not be transferred, sold, or offered for sale, nor shall a building permit be issued for a structure thereon, until a final plat of a subdivision shall have been recorded in accordance with this title and any applicable provisions of state law, and until the improvements required in connection with the subdivision have been guaranteed as provided herein. Building permits shall not be issued without written approval of all public agencies involved. No building depending on public water, sewer, energy facilities, or fire protection shall be permitted to be occupied until such facilities are fully provided and operational.

C. All lots, plots or tracts of land located within a subdivision shall be subject to this title whether the tract is owned by the subdivider or a subsequent purchaser, transferee, devisee or contract purchaser of the land or any other person.

D. It is unlawful for any person to receive a building permit on a parcel or tract of land in a subdivision until water and sewer utilities and all underground utilities located under the street surface are installed and all streets in the subdivision are rough graded. It shall be the responsibility of the subdivider to allow no human occupancy until all necessary utilities are installed and basic improvements are adequate to render the subdivision habitable, which improvements shall include paved streets. It is unlawful for any subdivider to sell any portion of an approved subdivision until the prospective buyer or builder has been advised that occupancy will not be permitted until all required improvements are completed. (Prior code § 8-3-3)

16.08.020 Interpretation.

In their interpretation and application, the provisions of this title shall be considered as minimum requirements for the purposes set forth. When the provisions of this title impose greater restrictions than any statute, other regulation, ordinance or covenant, the provisions of this title shall prevail. When the provisions of any statute, other regulation, ordinance or covenant impose greater restrictions than the provisions of this title, the provisions of such statute, other regulation, ordinance or covenant shall prevail. (Prior code § 8-3-4)

16.08.030 Administrative body.

The city planning commission shall be the administrative body to administer this title. (Prior code § 8-3-6)

16.08.040 Violations--Penalties.

It shall be a Class C misdemeanor for any person to fail to comply with the provisions of this title. In addition to any criminal prosecution, the city may pursue any other legal remedy to ensure compliance with this title including, but not limited to, injunctive relief. (Prior code § 8-3-7)

16.08.050 Fees.

A. Subdivision Application Fee. All persons desiring to develop a subdivision within the city shall file an application with the city recorder and pay a fee for a permit to file the application with the planning commission. This fee shall be in an amount established periodically by resolution of the city council. Payment of the surface and subsurface drainage fees described in Section 16.32.150 shall also be made at this time. If the planning commission determines, after consultation with the city engineer, that additional or extra-ordinary engineering services will be required in checking the preliminary plat and/or in performing necessary field work, the planning commission may require the subdivider to pay, at the time of the submission of such application or at any time prior to final examination and review of the preliminary plat and subdivision plans, an additional fee sufficient to cover the additional engineering costs anticipated.

When appearing before the planning commission for the first time, the subdivider shall present his or her receipt for his or her subdivision application fee, which shall evidence to the planning commission that it may commence examination of the plans.

No subdivision plans may be considered by the planning commission until such fee or fees have been paid.

B. Plat Filing and Filing Fee.

Subdividers shall file with the city recorder at the time of payment of the filing fee, a certified or cashier's check made payable to "The Davis County Recorder" in sufficient amount to cover the recording fees of the final plat. This payment shall be made upon presentation of the preliminary plat for review by the planning commission. No plat shall be recorded unless the subdivider's check is sufficient to cover the cost thereof.

C. Review and Design Fees. Review and design fees required by the city engineer in the performance of his or her duties shall be determined in the amount necessary to cover the actual cost of checking the final plat and all work, including field work, in connection therewith. These fees shall be approved by the city council. All such fees shall be properly receipted and deposited with the city treasurer, at the time of the submission of the final plat by the subdivider to the planning commission.

D. Time of Fee Payment. The foregoing fees shall be paid at the following times:

1. Subdivision application fee, upon presentation of the preliminary plan for review by the planning commission;

2. Plat filing fees, upon presentation of the final plat for review by the city council; and

3. Plan checking fee, upon presentation of the final plat for review by the city council. (Prior code § 8-3-20)

16.08.060 File of recorded subdivisions.

The city shall maintain a filing system of all subdivisions, which includes copies of all maps, data and official subdivision actions. (Prior code § 8-3-22)

Chapter 16.12 DESIGN REQUIREMENTS

Sections:

16.12.010 General considerations.

A. The general plan shall guide the use and future development of all land within the corporate boundaries of the city. The size and design of lots, the nature of utilities, the design and improvement of streets, the type and intensity of land use, and the provisions for any facilities in any subdivision shall conform to the land uses shown and the standards established in the general plan, the zoning ordinance, and other applicable ordinances.

B. Trees, native land cover, natural watercourses, and topography shall be preserved when possible. Subdivisions shall be so designed as to prevent excessive grading and scarring of the landscape in conformance with the zoning ordinance. The design of new subdivisions shall consider, and relate to, existing street widths, alignments and names.

C. Community facilities, such as parks, recreation areas, and transportation facilities shall be provided in the subdivision in accordance with general plan standards, this title, and other applicable ordinances. In order to facilitate the acquisition of land areas required to implement this policy, the subdivider may be required to dedicate, grant easements over or otherwise reserve land for schools, parks, playgrounds, public ways, utility easements, and other public purposes. (Prior code § 8-3-2)

16.12.020 Relations to adjoining street system.

A. Streets in proposed subdivisions shall be arranged so as to continue existing streets in adjoining areas or so as to properly protect those streets when adjoining lands are not subdivided. All such streets shall be planned and built at the same or greater width, unless the planning commission grants a variance to this requirement. Such street arrangements shall be made so as not to cause unnecessary hardship to owners of adjoining property when they seek to provide for access to those lands.

B. When, in the opinion of the planning commission, it is desirable to provide for street access to adjoining property, proposed streets shall be extended by dedication and/or fully improved as the city council may determine, to the boundary of such property. Half streets along the boundary of land proposed for subdivision will not be permitted. Minor streets shall approach the major or collector streets at an angle of not less than eighty (80) degrees. (Prior code § 8-3-13)

16.12.030 Nonresidential subdivisions.

A. The street and lot layout of a nonresidential subdivision shall be appropriate to the land for which the subdivision is proposed, and shall conform to the proposed land use and standards established in the city's master plan, any planned community plans, and the zoning ordinances of the city.

B. Nonresidential subdivisions shall include industrial and/or commercial tracts.

C. In addition to the principles and standards in this title which are appropriate to the planning of all subdivisions, the subdivider shall demonstrate to the satisfaction of the planning commission that the street, parcel and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed before allowing such subdivisions:

1. Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated;

2. Street rights-of-way and pavements shall be adequate to accommodate the anticipated type and volume of traffic to be generated thereon;

3. Special requirements may be imposed by the city with respect to street, curb, gutter and sidewalk design and construction;

4. Special requirements may be imposed by the city with respect to the installation of public utilities, including water, sewer and storm water drainage;

5. Every effort shall be made to protect adjacent residential areas from potential nuisance from the proposed nonresidential subdivision, including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for a permanently landscaped buffer strip or other suitable screening such as berms or walls as required by the planning commission;

6. Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing or potential residential areas, or connected to streets intended for predominantly residential traffic; and

7. Subdivisions for proposed commercial development shall take into account and specifically designate all areas for vehicular circulation and parking, for pedestrian circulation, and for buffer strips and other landscaping. (Prior code § 8-3-14)

16.12.040 Street and alley widths, cul-de-sacs, basements and numbers.

A. The minimum width of proposed streets, measured from lot line to lot line, shall be as shown on the master plan, or if not shown on such plan, shall be:

1. Minor arterial streets, not less than eighty (80) feet;

2. Major collector streets, not less than sixty-six (66) feet;

3. Minor collector streets, not less than sixty (60) feet;

4. Local service streets or minor streets, not less than fifty (50) feet; and

5. Alleys, if permitted, not less than twenty (20) feet.

B. Alleys may be required in the rear of business lots, but will not be accented in residential blocks except under unusual conditions when such alleys are considered necessary by the planning commission.

C. Minor terminal streets (cul-de-sacs) shall not be longer than four hundred (400) feet, to the beginning of the turnaround. The length of a cul-de-sac shall be measured from the centerline of the intersecting street along the centerline of the cul-de-sac, to a point at the center of the cul-de-sac. Each cul-de-sac must be terminated by a turnaround of not less than one hundred (100) feet diameter. If surface water drainage is into the turnaround, due to the grade of the street, necessary catch basins and drainage easements shall be provided.

D. The planning commission may require that easements for drainage through adjoining property be provided by the subdivider, and easements of not less than ten (10) feet in width for water, sewer, drainage, power lines and other utilities shall be provided in the subdivision when required by the planning commission.

E. Proposed streets which are obviously in alignment with others already existing shall bear the number of the existing street. (Prior code § 8-3-15)

16.12.050 Blocks.

The maximum length of blocks generally shall be one thousand two hundred (1,200) feet and the minimum length of blocks shall be five hundred (500) feet. In blocks over eight hundred (800) feet in length there may be required a dedicated walkway through the block at approximately the center of the block. Such a walkway shall be not less than ten (10) feet in width. The width of blocks generally shall be sufficient to allow two tiers of lots. Blocks intended for business or industrial use shall be designated specifically for such purposes with adequate space set aside for off-street parking and delivery facilities. (Prior code § 8-3-16)

16.12.060 Lots.

A. The lot arrangement, design and shape will be such that lots will provide satisfactory and desirable sites for buildings, be properly related to topography, and conform to requirements set forth herein.

Lots shall not contain peculiarly shaped elongations which would be unusable for normal purposes solely to provide necessary square footage.

B. All lots shown on the subdivision plat must conform to the minimum requirements of the zoning ordinance then in effect, if any, for the zone in which the subdivision is located, and to the minimum requirements of the county health department for water supply and sewage disposal. The minimum width for any residential building lot shall be as required by the zoning ordinance then in effect for zoned areas.

C. Each lot shall abut on a street dedicated for public use by the subdivision plat or an existing public street which is more than twenty-six (26) feet wide, except that when such existing street is less than fifty (50) feet wide or less than the width requirement of the master street plan, additional land shall be dedicated, to widen the street for that portion of the street upon which the subdivision has frontage. The amount of land to be dedicated shall be determined by the planning commission as necessary and reasonable to satisfy the requirements of one-half of that required width or fifty (50) feet, whichever is greater.

D. Interior lots having frontage on two streets shall be prohibited except when exceptional circumstances, as determined by the planning commission, would make such lots functionally acceptable. In all instances when such lots are permitted, the subdivider shall record deed restrictions in perpetuity for those lots, limiting access from those lots to one street only so that all lots have access to the same street. Such deed restrictions shall also prohibit construction within that space adjacent to the street, from which access is prohibited, to a depth of thirty (30) feet.

E. Corner lots shall have extra width sufficient for maintenance of required building lines on both streets. This width shall equal or exceed ten (10) feet.

F. Side lines of lots shall be approximately at right angles, or radial to the street line.

G. All remnants of lots below minimum size left over after the subdivision of a large tract must be added to adjacent lots, rather than allowed to remain as unusable parcels.

H. When the land covered by a subdivision includes two or more parcels in separate ownership and the lot arrangement is such that a property ownership line divides one or more lots, the land in each lot so divided shall be transferred by deed to either single ownership before approval of the final plat. Such transfer shall be certified to the planning commission by the city recorder. (Prior code § 8-3-17)

Chapter 16.16 MAPS OR PLANS

Sections:

16.16.040 Vacating or changing a recorded subdivision plat.

16.16.010 Preliminary conference and concept plan.

A. Purpose. The purpose of the preliminary conference and concept plan is to provide the subdivider with an opportunity before filing a preliminary plat to consult with and receive assistance from the city regarding the regulations and design requirements applicable to his or her proposed subdivision.

B. Prior to filing a preliminary subdivision plat, each person who proposes to subdivide land in the city shall meet with and submit to the planning director three copies of a preliminary design map or concept plan of the proposed subdivision which shall contain such information as is necessary to properly locate the subdivision.

The plan shall include the following information:

1. The proposed name of the subdivision;

2. A vicinity plan showing significant natural and manmade features on the site and within five hundred (500) feet of any portion of it; the property boundaries of the proposed subdivision; the names of adjacent property owners; topographic contours at no greater interval than five feet; and north arrow;

3. Proposed lot and street layouts, showing the number, size and design of each lot and the location and width of each street;

4. Locations of any important reservations or easements;

5. The general nature and extent of grading;

6. Descriptions of the type of culinary and irrigation water systems proposed as well as documentation of water rights and secondary water shares;

7. A description of the size and location of sanitary sewer and stormwater drain lines and subsurface drainage;

8. A description of those portions of the property which are included in the most recent flood insurance rate maps prepared by FEMA;

9. The total acreage of the entire tract proposed for subdivision;

10. The ownership of all lands within the proposed subdivision;

11. The mailing address of each owner of land within the subdivision as well as of those lands contiguous with the subdivision; and

12. Proposed changes to existing zoning district boundaries or zoning classifications, if any, and/or the necessity of obtaining conditional use permits.

C. The planning director shall return such plan or map to the subdivider with the suggestions of the subdivision committee within twenty (20) days of receipt. Subdivision information forms shall be furnished the subdivider at the time of returning the concept plan and map, which form shall be filled out by the subdivider and returned to the planning commission at the time the preliminary plat is submitted. (Prior code § 8-3-10)

D. A conceptual site plan is not intended to permit actual development of property pursuant to such plan but shall be prepared merely to represent how the property could be developed. Submittal, review, and approval of an application for a conceptual site plan shall not create any vested rights to development.

16.16.020 Preliminary plat.

A. Purpose. The purpose of the preliminary plat is to require formal preliminary approval of a subdivision in order to minimize changes and revisions which might otherwise be necessary on the final plat.

B. Each person who proposes to subdivide land in the city shall prepare a preliminary plat of such proposed subdivision and shall submit three black line prints thereof to the planning commission. It shall be the responsibility of the planning commission to determine whether the proposed subdivision complies with all regulations and requirements imposed by this title and the zoning ordinance.

C. Preliminary Plat Preparation and Required Information. The preliminary plat shall be drawn to a scale not smaller than one hundred (100) feet to the inch and shall include the following information:

1. The proposed name of the subdivision;

2. The location of the subdivision as it forms part of a larger tract or parcel, including a sketch of the future street system of the unplatted portion of the property;

3. A vicinity map of the proposed subdivision, drawn at a scale of five hundred (500) feet to the inch, showing all lots and streets in the project, and all abutting streets, with names of the streets;

4. The names and addresses of the subdivider, the engineer or surveyor of the subdivision, and the owners of the land immediately adjoining the land to be subdivided;

5. A contour map drawn at intervals of at least two feet, showing all unusual topographic features with verification by a qualified engineer or land surveyor;

6. Certification of the accuracy of the preliminary plat of the subdivision and any traverse to permanent survey monuments by a land surveyor, registered to practice in the state of Utah;

7. The boundary lines of the tract to be subdivided, with all dimensions shown;

8. Existing sanitary sewers, storm drains, subdrains, culinary and secondary water supply mains and culverts and other utilities within the tract or within one hundred (100) feet thereof;

9. The location, widths and other dimensions of proposed streets, alleys, easements, parks and other open spaces and lots showing the size of each lot in square footage and properly labeling spaces to be dedicated to the public;

10. The location, principal dimension, and names of all existing or recorded streets, alleys and easements, both within the proposed subdivision and within one hundred (100) feet of the boundary thereof, showing whether recorded or claimed by usage; the location and dimensions to the nearest existing bench mark or monument, and section line; the location and principal dimensions of all water courses, public utilities, and other important features and existing structures within the land adjacent to the tract to be subdivided, including railroads, power lines, and exceptional topography;

11. The existing use or uses of the property and the outline of any existing buildings and their locations in relation to existing or proposed street and lot lines drawn to scale;

12. The location of existing bridges, culverts, surface or subsurface drainage ways, utilities, buildings or other structures, pumping stations, or appurtenances, within the subdivision or within two hundred (200) feet thereof, and all known wells or springs as well as the location of any one hundred (100) year flood plains as determined by the
Federal Emergency Management Agency (FEMA);

13. Proposed off-site and on-site culinary and secondary water facilities, sanitary sewers, storm drainage facilities, and fire hydrants;

14. Boundary lines of adjacent tracts of unsubdivided land within one hundred (100) feet of the tract proposed for subdivision, showing ownership and property monuments;

15. If the site requires substantial cutting, clearing, grading or other earthmoving operations in the construction of improvements, the application shall include a soil erosion and sedimentation control plan prepared by a registered civil engineer; and

16. Verification as to the accuracy of the plat by the owner.
Each sheet of the set shall also contain the name of the project, scale (not less than one hundred (100) feet to the inch), sheet number, and north arrow.

In addition to the foregoing plat, the subdivider shall provide the following documents:

1. A tentative plan by which the subdivider proposes to handle storm water drainage for an event with a ten (10) year return interval, 0.20 cfs per acres discharge, as determined by the city engineer;

2. A tentative plan for providing street lighting in the subdivision;

3. Copies of any agreements with adjacent property owners relevant to the proposed subdivision;

4. A comprehensive geotechnical and soils report prepared by a qualified engineer based upon adequate test borings or excavations in accordance with the city's subdivision standards;

5. A copy of a preliminary title report evidencing satisfactory proof of ownership;

6. Satisfactory evidence that all utilities and services will be available for the subdivision and that the utilities and easements therefor have been reviewed by the utility companies;

7. If the proposed project is located within one hundred (100) feet of a critical flood area as defined by Davis County, a Davis County development and construction permit;
8. Copies of proposed protective covenants in all cases when subsurface drains are to be located within the subdivision; and

9. When the subdivider is not an individual corporation or registered partnership, a notarized statement bearing the signatures of all owners of record of the property to be subdivided which designates a single individual who shall act for and on behalf of the group in all appearances before public bodies, agencies or representatives necessary to execute the purpose of subdividing the property.

10. When a subdivision contains lands which are reserved in private ownership for community use, including common areas, the subdivider shall submit with the preliminary plat a preliminary copy of the proposed articles of incorporation, homeowner's agreements and bylaws of the owner(s) or organization empowered to own, maintain and pay taxes on such lands and common areas.

The subdivider shall also comply with all other applicable federal, state and local laws and regulations and shall provide evidence of such compliance if requested by the city.

D. Preliminary Plat Review and Approval by the Planning Commission. Upon receipt of the preliminary plat, the city will distribute copies of the plat to the city engineer and such other governmental departments and agencies for review and comment as the planning commission shall see fit. Within thirty (30) days after the filing of a preliminary plat of a subdivision and any other information required, the planning commission shall approve or reject the preliminary plat, or grant approval on conditions stated.

Approval of the preliminary plat by the planning commission shall not constitute final acceptance of the subdivision by the planning commission. The planning commission shall notify the subdivider, in writing, of the action taken by the planning commission, together with one copy of the preliminary plat and one copy of the planning commission's report thereof. Receipt of this signed copy shall, if the preliminary plat has been approved, be authorization for the subdivider to proceed with the preparation of plans and specifications for the minimum improvements required in Section 16.12.060 and with the preparation of the final plat. One copy of the approved preliminary plat, signed by the chair of the planning commission, shall be retained by the planning commission. If the preliminary plat is not approved, the planning commission shall specify in writing any inadequacy in the application including noncompliance with city regulations, questionable or undesirable design and/or engineering, or the need for any additional information. (Prior code § 8-3-11)

E. Waiver for Minor or Small Subdivisions. Provided the conditions listed in Utah Code Ann. § 10-9a-605, as amended, are met and the planning commission has reviewed and recommended for approval his or her record of survey map, a subdivider may present his or her survey map directly to the city

council for final approval of said subdivision. If the survey map meets with the council's approval, the council may waive the requirement of preparing a final plat for the subdivision. Upon this waiver, the subdivider may sell land by metes and bounds, without the necessity of recording a plat. In the development of the subdivision, however, the subdivider must provide such improvements as required by the planning commission and must comply with all of the requirements and specifications set forth by the planning commission and city council as the basis for granting subdivision approval.

Following approval by the city council and receipt of all necessary approvals and signatures, city council must submit a certificate of written approval along with the metes and bounds description for the subdivision, as outlined in Utah Code Ann. § 10-9a-605, if a plat is not recorded for such subdivision.

16.16.030 Final plat.

A. Purpose. The purpose of the final plat is to require formal approval by the planning commission and city council before a subdivision plat is recorded in the office of the Davis County recorder. The final plat and all information and procedures relating thereto shall in all respects be in compliance with the provisions of this section. The final plat and construction plans submitted shall conform in all respects to those regulations and requirements specified during the preliminary plat procedure.

B. Filing Deadline, Application and Fees. Application for final plat approval shall be made within twelve (12) months after approval or conditional approval of the preliminary plat by the planning commission. This time period may be extended for up to twelve (12) months for good cause shown if subdivider petitions the planning commission for an extension prior to the expiration date, however only one extension may be granted. The subdivider shall file an application for final plat approval with the city on a form prescribed by the city, together with three copies of the proposed final plat and three copies of the construction drawings. At the same time, the subdivider shall pay to the city the application fee for the subdivision as set forth in the city fee schedule.

C. Final Plat--Preparation and Required Information. The following provisions set forth the manner in which a final plat must be prepared and the information which it must contain.

1. The final plat shall consist of a sheet of approved tracing linen, mylar, or comparable material with the outside or trim line dimensions of nineteen (19) inches by thirty (30) inches. The border line of the plat shall be drawn in heavy lines leaving a space of at least one and one-half inches on the left side and at least one-half inch margin on the other sides. The plat shall be drawn so that the top of the drawing faces either north or west, whichever accommodates the drawing best. All lines, dimensions and markings shall be made with approved waterproof black ink. The plat shall be made to a scale large enough to clearly show all details, and in any case not smaller than one hundred (100) feet to the inch, and workmanship on the finished drawing shall be neat, clean cut and readable.

2. The plat shall show the subdivision name and the general location of the subdivision in bold letters at the top of the sheet.

3. The plat shall contain a north arrow and scale of the drawing and the date.

4. The plat shall be signed by all required and authorized parties with appropriate notarial acknowledgements.

5. An accurate and complete survey to second order accuracy shall be made of the land to be subdivided. A traverse of the exterior boundaries of the tract, and of each block, when computed from field measurements on the ground shall close within a tolerance of one foot to twenty thousand (20,000) feet.

6. The plat shall show accurately drawn boundaries and shall note the proper bearings and dimensions of all boundary lines of the subdivision. These lines shall be properly tied to public survey monuments and should be slightly heavier than street and lot lines.

7. The plat shall show all survey and mathematical information and data necessary to locate all monuments and to locate and retrace all interior and exterior boundary lines appearing thereon, including bearing and distance of straight lines, and central angle, radius and arc length of curves. The plat shall also contain such information as may be necessary to determine the location of beginning and ending points of curves. All property corners and monuments within the subdivision shall show the calculated Davis County coordinates. Lot and boundary closure shall be calculated to the nearest one-hundredth of a foot.

8. All lots, blocks and parcels offered for dedication for any purpose shall be delineated and designated with dimensions, boundaries and courses clearly shown and defined. The square footage of each lot shall also be shown. Parcels offered for dedication other than for streets or easements shall be clearly designated on the plat. Sufficient linear, angular and curved data shall be shown so as to be able to readily determine the bearing and length of the boundary lines of every block, lot and parcel. No ditto marks shall be used for lot dimensions.

9. The plat shall show the right-of-way lines of each street, and the width of any portion being dedicated as well as the widths of any existing dedications. The widths and locations of adjacent streets and other public properties within fifty (50) feet of the subdivision shall be shown with dotted lines. If any street in the subdivision is a continuation or an approximate continuation of an existing street, the conformity or the amount of nonconformity of such existing streets shall be accurately shown.

10. All lots and blocks are to be numbered consecutively under a definite system approved by the planning commission. Numbering shall continue consecutively throughout the subdivision with no omissions or duplications.

11. All streets, including named streets, within the subdivision shall be numbered in accordance with and in conformity with the adopted street numbering system adopted by the city. Each lot shall show the street addresses assigned thereto, and shall be according to the standard addressing methods approved by the city. In the case of corner lots, an address will be assigned for each part of the lot having street frontage.

12. The side lines of all easements shall be shown by fine dashed lines. The plat shall also show the width of all easements and ties thereto sufficient to definitely locate the same with respect to the subdivision. All easements shall be clearly labeled and identified.

13. The plat shall fully and clearly show all stakes, monuments and other evidence indicating the boundaries of the subdivision as found on the site. Any monument or benchmark that is disturbed or destroyed before acceptance of all improvements, shall be replaced by the subdivider under the direction of the city engineer. The following required monuments shall be shown on the final plat:

a. The location of all monuments placed in making the survey, including a statement as to what, if any, points were reset by ties; and

b. All right-of-way monuments at angle points and intersections as approved by the city engineer.

14. The final plat shall contain the name of the surveyor, together with the date of the survey, the scale of the map and notations as to the number of sheets comprising the plat. The following certificates, acknowledgements and descriptions shall appear on the title sheet of the final plat and may be combined when appropriate:

a. A registered land surveyor's certificate of survey;

b. An owner's dedication certificate;

c. A notary public's acknowledgement for each signature on the plat;

d. That all new subdivision plats submitted for approval in West Bountiful City, tie by metes and bounds description in both the written boundary description and the graphic (drawn) portion of the plat to a section or one-quarter section monument of the Salt Lake Base and Meridian;

e. Signature blocks for the planning commission, city engineer, city attorney and city council (which shall consist of a signature line for the mayor and an attestation by the city recorder). A block for the Davis County recorder shall be provided in the lower right corner of the final plat; and

f. Such other affidavits, certificates, acknowledgements, endorsements and notarial seals as are required by law, by this title, or by the city attorney.

15. Before recording of the plat, the subdivider shall submit a current title report to be reviewed by the city attorney. A "current title report" is considered to be one which correctly discloses all recorded matters of title regarding the property and which is prepared and dated not more than thirty (30) days before the proposed recordation of the final plat.

16. The owner's dedication certificate, registered land surveyor's certificate of survey, and any other certificates contained on the final plat shall be in the form prescribed by the city's subdivision standards and specifications, a copy of which shall be available for reference at the city offices.

17. When a subdivision contains lands which are reserved in private ownership for community use, including common areas, the subdivider shall submit with the final plat a final copy of the

proposed articles of incorporation, homeowner's agreements and bylaws of the owner(s) or organization empowered to own, maintain and pay taxes on such lands and common areas.

D. Construction Plans--Preparation and Required Information. The subdivider shall prepare and submit construction plans in accordance with the requirements and standards set forth under public improvements in this title.

E. Review by the City Engineer. The city engineer shall review the final plat and construction plans and determine compliance with the engineering and surveying standards and criteria set forth in this ordinance and all other applicable ordinances of the city and the state of Utah. The public works department shall be allowed the right to review the final plat and construction plans to check for accuracy and appropriate connectivity to current city infrastructure. The public works department shall provide written comments to the city engineer and subdivider when deemed necessary and appropriate. The city engineer shall sign the final plat if he or she finds that the subdivision and the construction plans fully comply with the improvement standards required by this title. The engineer shall not sign the plat unless the survey description is correct and all easements are correctly described and located. The city engineer shall complete review of the plat within thirty (30) days after the plat is submitted for review to the engineer. If the final plat complies with all necessary requirements, the city engineer shall sign the plat in the appropriate signature block and forward it to the planning commission. If the final plat or the construction plans do not comply with all necessary requirements, the city engineer shall return the plans and plat to the subdivider with comment.

F. Planning Commission Action. Upon receipt of the final plat signed by the city engineer, the planning commission shall review the plat to determine whether it conforms with the preliminary plat, with all changes requested, and with all requirements imposed as conditions of acceptance. As part of the planning commission's review, the planning administrator shall check the final plat for completeness and compliance with the requirements of this title. If the submitted plat is not acceptable, the planning commission shall notify the subdivider and specify the respects in which it is deficient. If the planning commission determines that the final plat is in conformity with all requirements and the ordinances of the city, it shall recommend the approval of the plat. The chair of the planning commission shall then sign the plat in the appropriate block and forward it to the city attorney.

G. Review by the City Attorney. The city attorney shall review the final plat, the signed subdivision improvements agreement, the current title report and the security for insuring completion of the improvements to verify compliance with the city's dedication and bonding requirements. The city attorney may also review public easements, protective covenants and other documents when applicable. Upon approval of the items specified in this section, the city attorney shall sign the plat in the appropriate signature block and forward the plat to the city administrator for presentation to the city council.

H. Review by the City Council. Within a reasonable time following the signing of the final plat by the planning commission and the city staff, the final plat shall be submitted to the city council for its review and consideration. The city council shall not be bound by the recommendations of the city staff or the planning commission and may set its own conditions and requirements consistent with this title. The city council may approve the final plat if it determines that the plat is in conformity with the requirements of this title, other applicable ordinances, and any reasonable conditions either recommended by the city's staff and/or planning commission or initiated by the city council; that all fees have been paid as required; and the council is satisfied with the plat as presented. If the city

council determines that the final plat is not in conformity with this title or other applicable ordinances, or any reasonable conditions imposed, it may disapprove the final plat. The council shall specify the reasons for such disapproval. Within one year after the city council has disapproved any plat, the subdivider may file with the planning commission a plat altered to meet the requirements of the city council. Upon approval and recommendation of the planning commission of this amended plat, the plat shall be submitted to the city council for final approval. No final plat shall have any force or effect unless the same has been approved by the city council and has been signed by the mayor and city recorder.

I. Security for Public Improvements.

1. Prior to a final plat's approval by the city council and its recordation with the county recorder, the subdivider shall enter into a bond agreement acceptable to the city as security to insure completion of all improvements required in the subdivision. The bond agreement shall be in a form approved by the city council and may contain specific provisions approved by the city attorney. The agreement shall include but not be limited to the following requirements:

a. The subdivider agrees to complete all improvements within a period of time not to exceed eighteen (18) months from the date the agreement is executed.

b. The improvements will be completed to the satisfaction of the city and in accordance with the city's subdivision standards and specifications (as established by the city engineer and adopted by the city council).

c. The bond will be equal to one hundred twenty (120) percent of the city engineer's estimated cost of the improvements, including landscaping costs.

d. The city shall have immediate access to the bond proceeds.

e. The bond proceeds may be reduced at intervals determined by the city upon the request of the subdivider as improvements are installed. The amount of all such reductions shall be determined by the city. Such requests may be made only once every thirty (30) days and no reduction shall be authorized until such time as the city has inspected the improvements and found them to be in compliance with the city's standards and specifications. All reductions shall be by written authorization of the city engineer and no bond shall be reduced below ten (10) percent of its face value plus the estimated cost of slurry seal either before or after city's final acceptance. After the two-year warranty period, the remaining proceeds plus interest shall be refunded to the subdivider. The amount of this interest will be calculated at a rate equal to that received on the city's other investments in the State Treasurer's Fund and shall be paid on the declining balance of the bond.

f. If the bond proceeds are inadequate to pay the cost of completing the improvements according to the city's standards and specifications for whatever reason, including previous reductions, the subdivider shall be responsible for the deficiency and no further building permits shall be issued in the subdivision until the improvements are completed; or, with city council approval, a new satisfactory bond has been executed and delivered to the city; or other satisfactory arrangements have been made to insure completion of the remaining improvements.

g. The city's costs of administration and cost of obtaining the bond proceeds, including attorney's fees and court costs, shall be deducted from any bond proceeds.

h. Upon receipt of the bond proceeds, after expiration of the time period for completion of the improvements, the cost of completion shall include reimbursement to the city for the costs of administration to complete the improvements.

i. The subdivider agrees to hold the city harmless from any and all liability which may arise as a result of the improvements which are installed until such time as the city certifies the improvements are complete and accepts the improvements at the end of the two-year warranty period.

2. The bond agreement shall be one of the following forms as prescribed by the city:
a. A cash bond agreement accompanied by a cashier's check payable only to the city; or
b. An escrow agreement and account with a federally insured bank.

J. Payment of Fees. All required and unpaid fees shall be paid by the subdivider to the city by cashier's check prior to approval of the final plat by the city council.

K. Recording of Final Plat. After filing the bond agreement described above, and signing of the plat by the mayor and city recorder, the final plat shall be presented by the city recorder to the Davis County recorder for recordation. The city recorder shall deliver forthwith the recorder's receipt and any change due to the subdivider.

L. Warranty Period. The warranty period referred to above shall commence upon the date that all improvements required by the city to be installed within the subdivision have been completed to the satisfaction of the city and a final on-site review thereof has been made approving the same. The warranty period shall commence at that date and shall continue for a period of two years thereafter. If any deficiencies are found by the city during the warranty period in materials or workmanship, the subdivider shall promptly resolve such defects or deficiencies and request the city engineer to review once more the improvements. At the end of the two-year warranty period the subdivider shall request the city engineer to make a final warranty period on-site review of all improvements. If the city engineer verifies that the improvements are acceptable, the city engineer shall notify the city administrator who shall refer the matter to the city council. The city council shall then review the matter and upon approval of the same shall release the balance of the security posted by the subdivider under the bond agreement.

M. Expiration of Final Approval. If the final plat is not recorded within six months from the date of city council approval, such approval shall be null and void. This time period may be extended by the city council for up to an additional six-month period for good cause shown. The subdivider must petition in writing for this extension prior to the expiration of the original six months. No extension will be granted if it is determined that it will be detrimental to the city. If any of the fees charged as a condition of subdivision approval have increased, the city may require that the bond estimate be recalculated and that the subdivider pay any applicable fee increases as a condition of granting an extension. (Ord. 264-00 (part); prior code § 8-3-12)

16.16.040 Vacating or changing a recorded subdivision plat.

A subdivision plat shall only be vacated or changed in accordance with state law as set forth in Section 10-9-810, Utah Code Annotated. (Prior code § 8-3-21)

(16.16 Amended March 4th, 2008; Ord. 300-08)

Chapter 16.20 IMPROVEMENTS

Sections:

16.20.010 Parks, school sites and other public spaces.

A. In subdividing property, consideration shall be given to suitable sites for schools, parks, playgrounds and other areas for public use. Any provision for such open spaces should be indicated on the preliminary plat in order that it may be determined by the planning commission when and in what manner such areas will be dedicated to, or acquired by, the appropriate agency.

B. The planning commission may, in the public interest, require that the subdivider set aside land for use for parks, playgrounds, schools, churches and other public structures, within the boundaries of a subdivision.

1. Subdividers may not be required to hold land set aside for churches, schools, parks exceeding ten thousand (10,000) square feet, and other public structures for more than one year without payment being made for the same on the basis of land and improvement costs.

2. For parks and neighborhood playgrounds of less than ten thousand (10,000) square feet, the subdivider shall, when required, dedicate these to the city without payment.

3. In subdivisions of less than forty (40) lots, the subdivider may not be required to dedicate more than one twenty-fifth as much land as there is in lots, not streets, for parks or playgrounds without payment.

4. For subdivisions greater than forty (40) lots, each group of forty (40) lots, or fraction thereof, may require additional dedicated park and playground area at the same ratio as for less than forty (40) lots. (Prior code § 8-3-18)

16.20.020 Public improvements.

A. Design Standards. The city engineer shall prepare standards and specifications for design, construction and on-site review of all public improvements including streets, curbs, gutters, sidewalks, water distribution systems, sewage disposal facilities and storm drainage and flood control facilities.

Standards for fire hydrants shall meet the requirements of any federal, state and local governmental entities having jurisdiction over such hydrants.

All subdivision standards and specifications and subsequent amendments thereto prepared by the city engineer or under the control of the city shall be approved by resolution of the city council before becoming effective. All public improvements shall be installed in accordance with the city's subdivision standards and specifications, the requirements of the city engineer and public works department as directed by the city engineer, the subdivision improvements agreement between the subdivider and the city and all other applicable city ordinances and regulations.

B. Construction Plans. Complete and detailed construction plans and drawings of all improvements shall be prepared in conformance with the design standards of the city. These plans and drawings shall address all proposed street utilities and shall be submitted to the city engineer for review with the final plan. Final approval of the project shall not be granted until these plans have been reviewed and recommended for approval by the city engineer. No construction shall be started until these plans have received final approval of the city and the final plat has been recorded.

C. Standards for Construction Plans. The city has established standards with respect to construction plans for the purpose of achieving consistency in drawings and uniformity in plan appearance, clarity, size and reproduction. These standards and specifications shall serve as minimum requirements for all aspects of proposed developments and subdivisions.

Three copies of initial construction plans shall be submitted for all proposed subdivisions and developments. Of these copies, one set shall be used by the city engineer and the public works department, one set shall be retained by the city, and one set shall be returned to the subdivider for corrections and revisions consistent with the recommendations of the city and the city engineer. After these corrections and revisions have been made by the subdivider, three revised sets shall be submitted to the city for final review by the city engineer.

All drawings and/or prints shall be clear and legible and conform to good engineering and drafting practice. All drawings shall be twenty-four (24) inches by thirty-six (36) inches (trim line) with a one-half inch border on the top, bottom and right side of the plan and a one and one-half inch border on the left side.

The plans shall include the following:

1. A north arrow;

2. Stationing and elevations for profiles;

3. U.S.G.S. datum for all elevations;

4. A title block located in the lower right corner of the sheet which shall include:

    a. Project title (subdivision, etc.),

    b. Specific type and location of work, and

c. Name of engineer or firm preparing drawings with license number and a Utah Engineers stamp imprint;

5. Scale information at 1" = 20' or 1" = 40' horizontally; and 1" = 2' or 1" = 4' vertically;

6. For curb and gutter plans, plan view and profiles for each side of the street including curve data for top of curb elevations but excluding street center line profile data;

7. Size and location of all culinary water lateral mains, meters, valves and hydrants which sizes and locations shall be subject to the specifications of the city engineer;

8. Data regarding types of pipe proposed;

9. Size and location of irrigation lateral mains, valves, fittings and other features of the irrigation system; and

10. Size and location of drains and subdrains to the sewer and storm drain systems as well as for their manhole clean-outs.

Separate sheets may be used as needed to detail the information required above.

D. Preconstruction Meetings. Prior to excavating or starting construction, the subdivider shall arrange a preconstruction meeting with the city engineer and the public works department. The subdivider shall bring to the meeting all contractors responsible for building the improvements associated with the project. The purpose of this meeting shall be to:

1. Verify the recordation of the plat and the final approval of all plans;

2. Determine the construction schedule;

3. Determine the names, addresses and phone numbers of all persons involved in the construction of the project, including contractors and inspectors;

4. Review all plans and any city imposed special conditions or requirements;

5. Review any bond reduction requests;

6. Coordinate on-site review and testing times; and

7. Discuss the city standards and specifications.

E. On-Site Construction Review. All construction requiring the installation of public improvements in a subdivision shall be subject to on-site review by the city engineer, or the public works department under direction from the city engineer.

Daily on-site review shall be required on the following types of work:

1. Placement of street surfacing;

2. Placement of concrete for curbs, gutters, sidewalks and other structures; and

3. Placement and testing of drainage and water pipes, valves, hydrants.

Periodic on-site reviews shall be required on the following:

1. Street grading and placement of gravel base;

2. Excavations for curbs, gutters and sidewalks; and

3. Excavations for all structures.

F. Requests for On-Site Review. Requests for on-site review shall be made to the city engineer by the person responsible for project construction. Such requests shall be made at least one working day prior to the commencement of construction.

G. Correcting Defective Work. Periodic on-site reviews shall be made by the city engineer, or public works department under direction of the city engineer, at various phases of construction. Any faulty or defective work shall be corrected by the subdivider or subdivider's contractor within a period of thirty (30) days from the date of the on-site review wherein the faulty or defective work is noted and written notice is given to the subdivider and/or contractor. (Prior code § 8-3-19)

(16.20 Amended March 4th, 2008; Ord. 300-08)

Chapter 16.24 VARIANCES AND APPEALS

Sections:

16.24.010 Variances.

A. Variances to these provisions may be granted by the board of adjustment upon recommendation of the planning commission when strict compliance with the provisions of this title would cause an unusual and unnecessary hardship on a subdivider due to the size of the tract to be subdivided, its topography, the condition or nature of adjoining areas or the existence of other unusual physical conditions.

B. In order for the property referred to in the petition to come within the provisions of this section, the planning commission shall find the following facts with respect thereto:

1. That there are special circumstances or conditions affecting the property;

2. That the modification is necessary for the preservation and enjoyment of a substantial property right of the petitioner; and

3. That the granting of the modification will not be detrimental to the public welfare or safety, or injurious to other property in the territory in which the property is situated.

C. In recommending the authorization of any variance to these provisions, the planning commission shall report to the city council its findings with respect thereto and all facts in connection therewith, and shall specifically and fully set forth the exception recommended and the conditions designated.

D. In granting such a variance, the city council shall secure, insofar as practicable, the objectives of the requirement varied. Any variance authorized shall be entered in the minutes of the city council. (Prior code § 8-3-8)

16.24.020 Appeals.

A. Appeal may be made to the city council from any decision, determination or requirement of the planning commission, planning administrator or city engineer hereunder by filing with the city recorder a notice thereof in writing within fifteen (15) days after such decision, determination or requirement is made. Such notice shall set forth in detail the grounds upon which the subdivider or other person deems himself or herself aggrieved. The petition shall be filed with or after the filing of the preliminary plat of the subdivision.

B. The city recorder shall set the appeal for hearing before the city council within a reasonable time after receipt of the appeal. Such hearing may be continued by order of the city council. The appellant shall be notified of the appeal hearing date at least seven days prior to the hearing. After hearing the appeal, the city council may affirm, modify or reverse the decision, determination or requirement appealed and enter any such orders as are in harmony with the purpose of this title. The city council shall notify the appellant in writing of its ruling. The filing of an appeal shall stay all proceedings and actions in furtherance of the matter appealed, pending a decision of the city council. (Prior code § 8-3-9)

Chapter 16.28 DRAINAGE AND SUBSURFACE WATER CONTROL

Sections:

16.28.010 Purpose.

The purpose of this chapter is to provide for the positive and adequate abatement and handling of all surface and subsurface water, including storm runoff from all new subdivisions and developments in the city, and to impose certain building restrictions to control problems due to subsurface water conditions. (Prior code § 8-5-1)

16.28.020 Applicability.

The provisions of this chapter shall apply to all subdivisions and developments to be constructed within the city. (Prior code § 8-5-2)

16.28.030 Interpretation.

In interpreting and applying the provisions of this chapter, the requirements contained herein are declared to be the minimum requirements for the purpose set forth. (Prior code § 8-5-3)

16.28.040 Conflicts.

This chapter shall not nullify the more restrictive provisions of any private covenants, agreements or other ordinances or laws, but shall prevail over such provisions which are less restrictive. (Prior code § 8-5-4)

16.28.050 Definitions.

For the purposes of this chapter, the following words shall have the meanings herein prescribed:

"**Catch basin**" means an opening into a storm drain system for the entrance of surface storm runoff.

"**Civil engineer**" means an engineer registered under the provisions of the state of Utah.

"**Developer**" means any person, firm or corporation engaged in creating a development as defined herein.

"**Development**" means any commercial, industrial, residential, public or recreational project and any single lot residential development or any commercial, industrial, residential, public or recreational redevelopment or remodeling which will cause changes in the existing drainage pattern or system.

"**Discharge of drainage**" means the emptying of collected waters from a drainage system into a manmade drainage way or natural channel.

"**Drainage**" means the interception and removal of surface and subsurface water by artificial or natural means. Also refers to the water collected by such interception and removal.

"**Drainage facilities**" means all pipes, catch basins, pumps, manmade drainage ways, natural channels, etc., designed to collect and carry drainage.

"**Drainage fee**" means a fee established periodically by resolution of the city council.

"**Drainage plan**" means a plan showing all drainage facilities, both on and off-site, designed to carry all surface and subsurface waters from a subdivision or development.

"**Drainage way**" means any natural channel, stream, manmade channel, canal or other such structure designed to carry water flows.

"**Engineer/geologist**" means a person with an accredited degree in geology or geological engineering, with at least five years experience in the field or geological studies relating to hydrological problems.

"**Erosive**" refers directly to the point in time when the stream bed of a natural channel begins to be scoured, worn or deteriorated due to the water flow in said channel.

"**Estuary**," for purposes of this chapter, is defined as Mill Creek, Stone Creek, Barton Creek and such other natural drainage ways or manmade canals and ditches as may be approved periodically by the designated city official.

"**Excavation**" means any disruption of the soil mantle and/or manmade surfacing of the same. Excavations may be either in the nature of a process or a use. Excavations undertaken for the purpose of preparing a site for an ultimate land use or for repairing or constructing urban service facilities are processes, whereas excavations such as gravel pits, quarries or mines are uses which require specific use authorization in the zoning district where located in addition to a conditional use permit if such is required.

"**Existing natural grade**" means the actual elevation of the ground surface before excavation or filling takes place.

"**Finished grade**" means the actual elevation of the ground surface after excavation or filling has taken place.

"**Flooding**" means an unusual abundance of water which overflows land not normally covered with water.

"**Geologist**" means a person with an accredited degree in the field of geology and at least five years experience with specific application in hydrological studies.

"**Geologist/hydrologist**" means a person with an accredited degree in geology or hydrology with at least five years experience in the field of geohydrology.

"**Grading plan**" means a plan outlining the excavation or fill proposed for the subdivision or development, including a description of the conditions resulting from such excavation or fill.

"**Groundwater**" means water beneath the surface of the ground which is in the saturated zone below the water table.

"**Gutter**" means a structure designed as part of a street to convey water drainage.

"**Hydrology**" means the study of the processes involved in the transfer of moisture from one body of water to the land and back to another body of water.

"**Hydrology report**" means an analysis of the hydrologic processes involved on a parcel of ground in relation to a subdivision or development.

"**Lot**" means a parcel or portion of land established for purposes of sale, lease, finance, division of interest or separate use, or separated from other lands by description on a subdivision map and/or parcel map, and having frontage upon a street.

"**Manmade drainage way**" means any open or enclosed channel or structure constructed by man for the purpose of conveying drainage water.

"**Natural channels**" means drainage ways which have been created by nature.

"**Off-site improvements**" means any drainage facilities which are necessary for the conveyance of the drainage from the subdivision or development to a major drainage way and which occur on land other than that of the proposed site.

"**One hundred (100) year storm**" means a statistical storm event which has the chance of occurring once in one hundred (100) years, or one percent chance of happening in any given year.

"**Perpetual conveyance of irrigation water**" means the continued flow of irrigation water to the respective users of such water.

"**Standard project flood**" means the flood which could occur from the most severe combination of meteorological conditions characteristic of the area, excluding extremely rare combinations.

"**Storm drain system**" means the system of drainage facilities designed to carry storm water runoff.

"**Storm runoff**" means storm water which drains off surface due to flow exceeding infiltration capacity.

"**Subsurface drain**" means an underground conduit designed to permit infiltration for the purpose of collecting subsurface water.

"**Subsurface water**" means water beneath the surface of the ground.

"**Surface water**" means water which rests on the surface of the ground or is not covered by any earth or rock: i.e., rivers, ponds and lakes.

"**Sump condition**" means water restricted to an inlet area because the inlet is located at a low point.

"**Upward leakage**" means vertical seepage in an upward direction through an aquifer caused by hydrostatic pressure.

"**Water rights**" means legal rights to use of water held by individuals and corporations referring directly to parcels of land on which such water is used.

"**Water table**" means the level below which the ground is saturated with water.

"**Wells**" means any pipe, excavation or access below the surface of the ground having been used or currently being used as a source of water. (Prior code § 8-5-5)

16.28.060 Hydrology report.

A hydrology report shall be prepared at the expense of the subdivider or developer by a qualified person or firm in the field of hydrological studies (i.e., civil engineer, engineer/geologist, geologist, hydrologist) in which a minimum of the following shall be done:

A. Flooding. Analyze the flood or inundation potential of the proposed subdivision or development site shall be performed. This analysis shall include:

1. A one hundred (100) year storm frequency determination based on rain on a saturated soil mantle,

2. A standard analysis of any meandering streams which are either on, near, or pass through the proposed site,

3. A history of prior flooding,

4. An evaluation of the effects of short duration, high intensity rainstorms and rapid snow melt on the proposed subdivision or development;

B. Other Surface Hydrology.

1. Define the capability of existing natural channels and other manmade drainage ways to accommodate the estimated increase in storm drainage flow due to the proposed subdivision or development,

2. If a natural stream channel is to be used for the discharge of drainage waters, define at what point the water flow and velocity is erosive. If the stream channel or banks will erode, specify what measures will be taken to minimize such erosion,

3. Make an estimate or measurement of minimum and maximum flows in manmade and natural drainage ways,

4. Describe all existing drainage ways both natural and manmade, including any irrigation, well discharge and subsurface drains which presently are on, near or pass through the proposed site and evaluate how such existing drainage flow patterns will be maintained by the proposed subdivision or development;

C. Subsurface Hydrology.

1. Identify existing or potential subsurface water problems (i.e., flooded basements, ponding, etc.) due to high water table, areas of upward leakage, existing subsurface drains (including locations of any known old, wooded subsurface drains common in the city) and describe how the proposed drainage system will help solve the problems,

2. Identify any existing or potential wells on the site and describe the steps to be taken to protect such wells from pollution;

D. Geology.

1. Investigate exposed and subsurface earth materials, including elements, geologic composition, limitations and geologic hazards,

2. Specify existing geologic and soil conditions, including physical properties and engineering behavior (i.e., shrink-swell capacity) of unconsolidated geologic formations,

3. Analyze the impact of any geologic or hydrologic hazards upon present or potential uses. (Prior code § 8-5-6)

16.28.070 Drainage plan.

A. Drainage Delivery. All subdividers and developers shall provide a plan of drainage facilities designed to carry all surface and subsurface waters which are or could become either a hazard or a public nuisance to the nearest practicable drainage way as approved by the public works director or city engineer as an acceptable place to deposit such waters.

B. Design Standards. The plan must specify for approval by the public works director or city engineer all facilities design, pipe sizes, materials and appurtenances.

C. Time of Submission. The drainage plan shall be submitted along with the preliminary subdivision plat or preliminary site plan for development. This plan will include a computation of the drainage fee as specified in this chapter.

D. Approval. Final approval of the drainage plan will be given at the time of preliminary subdivision or development approval. No subdivis ion plat or development plan will receive final approval without acceptance of the drainage plan.

E. Expiration of Approval. Final drainage approval will expire and become null and void if work as authorized does not commence within one hundred eighty (180) days of such approval. If the subdivider or developer holding such approval presents satisfactory evidence that unusual circumstances have delayed the beginning of such work, extension of time may be granted by the authorized city official if written application for such an extension is made before the expiration date. (Prior code § 8-5-7)

16.28.080 Off-site improvements.

It is the responsibility of the subdivider or developer to make all off-site improvements necessary to convey any drainage from the subdivision or development to the accepted and designated drainage way as specified in Section 16.28.070(A) of this chapter.

A. Costs. All cost s for such improvements shall be paid by the subdivider or developer.

B. Provision for Further Development. Should it be determined by the designated city official that further development may necessitate larger than normal size drainage facilities, the subdivider or developer shall be required to make such improvements; provided, however, that the cost for such additional improvements will be reimbursed as funds are available through a revolving drainage improvements account.

C. Revolving Drainage Improvements Account. A fund to be known as the revolving drainage improvements account shall be established to provide for the ongoing maintenance and upgrading of the city's drainage system. The fund shall consist of the fees collected under Section 16.28.130 of this chapter. (Prior code § 8-5-8)

16.28.090 Drainage onto other properties.

Waters shall not be drained onto other properties not in the same ownership without written permission from the owner of the adjacent property. When a ditch or drainage channel under private ownership is to be used, written permission from either the president of the ditch company when an incorporated ownership, or from all property owners using the ditch must be obtained. (Prior code § 8-5-9)

16.28.100 Drainage of impervious surfaces.

Whenever any surface of a lot, plot, parcel or portion thereof is excavated, filled, graded or hard-surfaced with impervious material (i.e., streets, driveways, sidewalks, parking lots, etc.), adequate surface drainage shall be

provided. Such drainage will connect directly into the overall site drainage system for the subdivision or development as approved by the designated city official. (Prior code § 8-5-10)

16.28.110 Catch basins.

Catch basins shall be placed in the gutter at all sump locations and elsewhere at the direction of the city council. In no case shall surface water be allowed to be carried in a gutter for more than one thousand five hundred (1,500) feet without the installation of a catch basin or other approved device for depositing the surface water into an acceptable storm drain system. (Prior code § 8-5-11)

16.28.120 Existing natural drainage.

Existing natural surface and subsurface drainage of the ground surrounding the proposed lot or plot shall not be impeded by any off or on-site construction and improvements. (Prior code § 8-5-12)

16.28.130 Drainage fee.

A. Intent. For the purpose of providing ongoing maintenance and upgrading of the storm drainage system, a storm drainage fee shall be assessed, for all new subdivisions and developments in the city. This fee shall be paid by the subdivider or developer at the time of final drainage plan approval and prior to the issuance of any building permits. Approval shall not be given if such fee is not paid.

B. Determination of Fee. The subdivider or developer, or anyone seeking a building permit, shall pay a fee which shall be determined by a formula that shall be established periodically by resolution of the city council. (Prior code § 8-5-13)

16.28.140 Water rights.

For the protection of future water rights of the city and to alleviate the necessity of the perpetual conveyance of irrigation water in favor of long-term provision for drainage facilities, any surface and subsurface water rights and necessary use easements for access thereto will, at the city's option, be transferred to the city at the time of subdivision or development. In exchange the city will furnish culinary water to residences or other buildings used for human occupancy within the subdivision or development at the city's standard prevailing rate, not to include improvements for such connection. Such improvements will be provided by the subdivider or developer, both on and off-site. (Prior code § 8-5-14)

16.28.150 Development restrictions.

Upon review of the hydrology report and drainage plan, additional restrictions may be placed on the construction of all residential dwellings, buildings, or other edifices within the subdivision or development to include, but not be limited to the following:

A. No residences, buildings or structures shall be constructed below existing natural grade;

B. Foundations for any residence, building or structure shall be placed on existing natural grade;

C. The site shall be filled to finish grade in accordance with a previously submitted and approved grading plan; and/or

D. All finished floor elevations on buildings constructed shall be at least twelve (12) inches above the curb, or street, or proposed street, level adjacent to the building except when otherwise approved by the city engineer and city council. Below floor or crawl space area shall not exceed 48 inches in height as measured from the bottom of the supporting floor member to the top of the finished ground surface. Below floor or crawl space area shall not exceed 60 inches in height as measured from the bottom of the supporting floor structure to the top of a finish floor where the finish floor is one foot or above the curb or street elevation. Below floor or crawl space area which is located below the street or curb elevation is not considered to be finished floor area and is not approved for domestic use including storage.

E. No residential development shall be allowed that places streets below elevation 4216.00 or finish floors below 4218.00.

F. No commercial or industrial development shall be allowed that places the streets below elevation 4216.00 or the finish floor below elevation 4217.00.

16.28.160 Appeals.

A. Any person, firm or corporation aggrieved by the decision of any authorized official regarding this chapter may appeal such determination to the planning commission by filing a written notice of appeal with the secretary of the planning commission within thirty (30) days following the authorized official decision.

B. Any person, firm or corporation aggrieved by any decision of the planning commission regarding this chapter may appeal to the city council by filing a written appeal with the city recorder within thirty (30) days of the planning commission's decision and have it placed on the next city council's meeting agenda, consistent with requirements of the open meeting law. (Prior code § 8-5-16)

16.28.170 Violations--Penalties.

A. Any person, firm or corporation who shall create, or cause to be created, a development as defined herein, or construct a building within the limits of the city, without complying with the provisions of this chapter, or who shall violate any provisions hereof shall be deemed guilty of a Class B misdemeanor. Each day in which any such violation shall continue, or be permitted, shall be deemed a separate offense.

B. The city shall authorize the necessary public officials and/or officers to investigate and make reports to the planning commission of any such violations. The planning commission, if it finds that such a violation does exist, may recommend that legal action be taken by the city council. (Prior code § 8-5-17)

Chapter 16.32 FLOOD DAMAGE PREVENTION

Sections:

16.32.010 Statement of purpose.

It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions to specific areas by provisions designed:

A. To protect human life and health;

B. To minimize expenditure of public money for costly flood control projects;

C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

D. To minimize prolonged business interruptions;

E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;

F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

G. To ensure that potential buyers are notified that property is in an area of special flood hazard; and

H. To ensure that those who occupy the areas of special flood hazards assume responsibility for their actions. (Prior code §8-6-1)

16.32.020 Methods of reducing flood losses.

In order to accomplish its purposes, this chapter includes methods and provisions for:

A. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

D. Controlling filling, grading, dredging and other development which may increase flood damage; and

E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas. (Prior code § 8-6-2)

16.32.030 Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

"**Appeal**" means a request for a review of the public works director's interpretation of any provision of this chapter or a request for a variance.

"**Area of shallow flooding**" means a designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

"**Area of special flood hazard**" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

"**Base flood**" means the flood having a one-percent chance of being equaled or exceeded in any given year.

"**Development**" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

"**Flood**" or "**flooding**" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and/or

2. The unusual and rapid accumulation or runoff of surface waters from any source.

"**Flood insurance rate map (FIRM)**" means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"**Flood insurance study**" means the official report provided by the Federal Emergency Management Agency that included flood profiles, the Flood Boundary Floodway Map, and the water surface elevation of the base flood.

"**Floodway**" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"**Lowest floor**" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

"**Manufactured home**" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. This term also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days.

"**Manufactured home park or subdivision**" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"**New construction**" means structures for which the start of construction commenced on or after the effective date of the ordinance codified in this chapter.

"**Start of construction**" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (180) days of the permit date. The "actual start" means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the

installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

"**Structure**" means a walled and roofed building or manufactured home that is principally above ground.

"**Substantial improvement**" means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:

A. Before the improvement or repair is started; or

B. If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

1. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or

2. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

"**Variance**" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter. (Prior code § 8-6-3)

16.32.040 Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of West Bountiful. (Prior code § 8-6-4)

16.32.050 Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for the West Bountiful," dated October 6, 1987, with an accompanying Flood Insurance Rate Map (FIRM) is adopted by reference and declared to be a part of this chapter. Updates of these studies and map, when duly issued by FEMA, are also adopted. The Flood Insurance Study and FIRM shall be on file at the city offices. (Prior code § 8-6-5)

16.32.060 Compliance.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations. (Prior code § 8-6-6)

16.32.070 Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, when this chapter and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Prior code § 8-6-7)

16.32.080 Interpretation.

In the interpretation and application of this chapter all provisions shall be:

A. Considered as minimum requirements;

B. Liberally construed in favor of the city council; and,

C. Deemed neither to limit nor repeal any other powers granted under state statutes. (Prior code § 8-6-8)

16.32.090 Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of West Bountiful City, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder. (Prior code § 8-6-9)

16.32.100 Establishment of development permit.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established by the materials identified in Section 16.32.050. Application for a development permit shall be made on forms furnished by the director of public works and may include, but not be limited to:

Plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. The following specific information shall be required:

A. Elevations in relation to mean sea level of the lowest floor (including basement) of all structures;

B. Elevations in relation to mean sea level to which any structure has been floodproofed;

C. A certification by a registered professional engineer or architect that the flood-proofing methods for any nonresidential structure meet the flood-proofing criteria in Section 16.32.150(B); and

D. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. (Prior code § 8-6-10)

16.32.110 Designation of the director of public works.

The director of public works is appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions. (Prior code § 8-6-11)

16.32.120 Duties and responsibilities of the director of public works.

With respect to this chapter, the duties of the director of public works shall include, but not be limited to the following.

A. Permit Review. The director of public works shall:

1. Review all development permits to determine that the permit requirements of this chapter have been satisfied;

2. Review all development permits to determine that all necessary permits have been obtained from federal, state, or local governmental agencies from which prior approval is required; and

3. Review all development permits to determine if the proposed development is located in the floodway. If the development is located in the floodway, the public works director shall assure that the encroachment provisions of Section 16.32.160(A) are met.

B. Review of Other Base Flood Data.

When base flood elevation data has not been provided as part of the materials identified in Section 16.32.050, the director of public works shall obtain, review and reasonably utilize any base flood elevation and floodway data available from any federal, state, or other source as criteria for requiring the new construction, substantial improvements, or other development in Zone A are administered in accordance with Section 16.32.150.

C. Acquisition and Maintenance of Information. The director of public works shall:

1. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;

2. For all new or substantially improved flood-proofed structures:

a. Verify and record the actual elevation (in relation to mean sea level) to which the structure has been flood-proofed,

b. Maintain the flood-proofing certifications required in Section 16.32.100(C); and

3. Maintain for public inspection all records pertaining to the provisions of this chapter.

D. Alteration of Watercourses. The director of public works shall:

1. Notify adjacent communities, the Denver, Colorado, FEMA offices and the Davis County Flood Control prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency;

2. Require that the altered or relocated portion of the watercourse be maintained so that the flood-carrying capacity of the watercourse is not diminished.

E. Interpretation of FIRM Boundaries.

The public works director shall interpret, when needed, the exact location of the boundaries of the areas of special flood hazards (for example, when there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 16.32.130. (Prior code § 8-6-12)

16.32.130 Variance procedure.

A. Appeal Board.

1. The zoning board of adjustment, as established by the city, shall hear and decide appeals and requests for variances from the requirements of this chapter.

2. The zoning board of adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the director of public works in the enforcement or administration of this chapter.

3. Those aggrieved by the decision of the zoning board of adjustment or any taxpayer, may appeal such decisions to the District Court, as provided in Utah law.

4. In passing upon such applications, the zoning board of adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

a. The danger that materials may be swept onto other lands to the injury of others;

b. The danger to life and property due to flooding or erosion damage;

c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;

d. The importance of the services provided by the proposed facility to the community;

e. The necessity to the facility of a waterfront location, when applicable;

f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

g. The compatibility of the proposed use with the existing and anticipated development;

h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

i. The safety of access to the property in times of flood for ordinary and emergency vehicles;

j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets and bridges.

5. Upon consideration of the factors of subsection (A)(4) of this section and the purposes of this chapter, the zoning board of adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

6. The director of public works shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency.

B. Conditions for Variances.

1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base level, provided items listed in subsection (A)(4)(a) through (k) of this section have been fully considered. As the lot size increases beyond one-half acre, the technical justifications required for issuing the variance increases.

2. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this section.

3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

5. Variances shall only be issued upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in subsection (A)(4) of this section or conflict with existing local laws or ordinances.

6. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk from the reduced lowest floor elevation. (Prior code § 8-6-13)

16.32.140 General standards for flood hazard reduction.

In all areas of special flood hazards, the following standards are required:

A. Anchoring.

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure and shall be capable of resisting the hydrostatic and hydrodynamic loads.

2. All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement and must be capable of resisting hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to, the use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

Specific requirements may include:

a. Providing over-the-top ties at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than fifty (50) feet long requiring one additional tie per side.

b. Providing frame ties at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than fifty (50) feet long requiring four additional ties per side;

c. Ensuring all components of the anchoring system are capable of carrying a force of four thousand eight hundred (4,800) pounds; and

d. Ensuring any additions to the manufactured home be similarly anchored.

B. Construction Materials and Methods.

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

3. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

C. Utilities.

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision Proposals.

1. All subdivision proposals shall be consistent with the need to minimize flood damage.

2. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

4. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five acres (whichever is less). (Prior code § 8-6-14)

16.32.150 Specific standards for flood hazard reduction.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in the materials identified in Section 16.32.050, or Section 16.32.120(B), the following provisions are required:

A. Residential Construction.

1. New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to or above the base flood elevation.

2. Within any AO and AH Zone on the FIRM, all new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated above the highest adjacent grade. This floor shall be elevated at least as high as the depth number specified in feet on the FIRM (which shall be at least two feet if no depth number is specified).

3. Within zones AO and AH, adequate drainage paths shall be provided around structures on slopes to guide floodwaters around and away from proposed structures.

B. Nonresidential Construction.

1. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

a. Be flood-proofed so that below the base flood elevation the structure is water tight with walls substantially impermeable to the passage of water;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this paragraph. Such certifications shall be provided to the public works director as set forth in Section 16.32.120(C)(2).

2. Within any AO and AH zone on the FIRM, all new construction and substantial improvements of nonresidential structures:

(i) have the lowest floor (including basement) elevated above the highest adjacent grade, at least as high as the depth number specified in feet on the FIRM (which shall be at least two feet if no depth number is specified); or (ii) together with attendant utility and sanitary facilities, be completely flood-proofed to that level to meet the flood-proofing standard specified in subsection (A)(1) of this section.

3. Within zones AO and AH, adequate drainage paths shall be provided around structures on slopes to guide floodwaters around and away from proposed structures.

C. Openings in Enclosures Below the Lowest Floor. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

2. The bottom of all openings shall be no higher than one foot above grade; and

3. Exterior walls shall be equipped with screens, louvers or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

D. Manufactured Homes.

1. Manufactured homes shall be anchored in accordance with Section 16.32.140(A)(2).

2. All manufactured homes or those to be substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and is securely anchored to an adequately anchored foundation system. (Prior code § 8-6-15)

16.32.160 Floodways.

Located within areas of special flood hazard established in Section 16.32.050 are areas designated as floodways. Because the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions apply:

A. The city prohibits encroachments (in cluding fill), new construction, substantial improvements, and other development, unless certification by a registered professional engineer or architect is provided demonstrating that the encroachments shall not result in any increase in flood levels during the occurrence of base flood discharge.

B. With respect to new construction and substantial improvements, the requirements set forth in subsection A of this section are supplemental to all other applicable flood hazard reduction provisions set forth above in Sections 16.32.140 through 16.32.160, inclusive. (Prior code § 8-6-16)

Title 17 ZONING

Chapters:

Chapter 17.04 INTRODUCTORY PROVISIONS

Sections:

17.04.010 Short title.

This title shall be known as the zoning ordinance or zoning code of the city, and may be cited and pleaded in either manner. (Prior code § 9-1-1)

17.04.020 Purpose.

This title is designed and enacted for the purpose of promoting the health, safety, morals, convenience, order, prosperity, and welfare of the present and future inhabitants of the city, providing for, among other things, less congestion in the streets, better building and development practices, adequate light and air, a logical classification of land uses and distribution of land development and utilization, protection of the tax base, economy in governmental expenditures, encouragement of agriculture and industrial pursuits in appropriate locations, and the protection of existing urban development. This title accomplishes these purposes by zoning the area lying within the city and by regulating the location, height, bulk and size of buildings and other structures; the percentage of lot which may be occupied; the size of yards, courts and open spaces; the uses of buildings and structures for trade, industry, residence, recreation, public activities or other purposes; and the uses of land for trade, industry, residence, recreation or other purposes; and, with Title 16, of these ordinances, regulates the subdivision of land within the city. (Prior code § 9-1-2)

17.04.030 Definitions.

Unless the context requires otherwise, the following definitions shall be used in the interpretation and construction of this title. The words "used" and "occupied" shall include arranged, designed, constructed, altered, converted, rented, leased or intended to be used or occupied. Words used in this title but not defined herein shall have the meanings as defined in any other ordinances adopted by the city.

"**Accessory use or building**" means a use or building on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or building.

"**Advisory body**" means a body of selected members that:

(a) Provides advice and makes recommendations to another person or entity who makes policy for the benefit of the general public;
(b) Is created by and whose duties are provided by statute or by executive order; and
(c) Performs its duties only under the supervision of another person or entity as provided by statute. (Definition derived from Utah Code Ann. § 68-3-12.)

"**Agriculture**" means the production of food through the tilling of the soil, the raising of crops, breeding and raising of domestic animals and fowl, except household pets, and not including any agricultural industry or business designed for the processing of raw food products by packaging, treating and/or intensive feeding.

"**Alley**" means a public access-way less than twenty-six (26) feet in width, which is designed to give secondary access to lots or abutting properties. An alley shall not be considered a street for the purpose of this code.

"Apiary" means a place where one or more colonies of bees are located.

"**Appeal authority**" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

"**Average grade**" means an expression of rise or fall in elevation along the land connecting the highest point of land to the lowest point of land within a lot or building area. A vertical rise of one hundred (100) feet between two points one hundred (100) feet apart measured on a horizontal plane is one hundred (100) percent grade.

"**Average slope**" means an expression of rise or fall in elevation along a line perpendicular to the contours of the land connecting the highest point of land to the lowest point of land within a lot or building area. A vertical rise of one hundred (100) feet between two points one hundred (100) feet apart measured on a horizontal plane is one hundred (100) percent slope.

"**Basement**" means a story whose floor is more than twelve (12) inches below the average level of the adjoining ground, but where no more than one-half of its floor-to-ceiling height is below the average contact level of the adjoining ground. A basement shall be counted as a story for purposes of height measurement, and as a half-story for the purposes of side-yard determination.

"Bee" means the common honey bee, apis mellifera, at any stage of development. (Ord. 338-12)

"**Beginning of construction**" means the excavation or recontouring of the site.

"**Billboard**" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

"**Block**" means an area of land within a subdivision entirely bounded by streets (other than alleys), freeways, railroad rights-of-way, natural barriers, or the exterior boundaries of the subdivision, or designated as a block on any recorded subdivision plat.

"**Buildable area**" means the portion of a lot remaining after required yards have been provided, except that land with an average slope exceeding fifteen (15) percent shall not be considered geotechnically buildable unless it is approved by conditional use permit.

"**Building**" means any structure used or intended to be used for the shelter, recreation, landscape enhancement or enclosure of persons, animals or property; includes all "structures".

Building, Height of. "**Height of building**" means the vertical distance from the average, finished grade surface at the foundation, to the highest point of the building roof or coping.

"**Building official**" means the person designated as the building official for the city by the city council.

"**Cellar**" means a room or rooms having more than fifty (50) percent of the floor to ceiling height under the average level of the adjoining ground.

"**Charter school**" includes:

(a) An operating charter school;
(b) A charter school applicant that has its application approved by a chartering entity in accordance with Utah Code Annotated, Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; and
(c) An entity who is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

"**Chief executive officer**" means the:

(a) Mayor in municipalities operating under all forms of municipal government except the council-manager form; or
(b) City manager in municipalities operating under the council-manager form of municipal government.

"**Church**" means a building, together with its accessory buildings and uses, maintained and controlled by a duly recognized religious organization where persons regularly assemble for worship and religious instruction.

Clinic, dental or medical. "**Dental or medical clinic**" means a building in which a group of dentists, physicians and/or allied professionals in the healing arts are associated for the conduct of their professions. The clinic may include a dental and/or medical laboratory and an apothecary, but it shall not include in-patient care or operating rooms for major surgery.

"Colony" means an aggregation of bees in any type of hive that includes queens, workers, drones, or brood.
"**Conditional use**" means a land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

"**Condominium**" means the ownership of a single unit in a multiunit project, together with an undivided interest in common in the common areas and facilities of the property as provided by state law. A condominium development is comparable to a subdivision in that each development is characterized by multiple individual ownerships in a single development; in a condominium development the multiple individual ownerships are in structures, whereas in subdivisions such ownerships are in land. For regulation purposes the development of a condominium project is treated by Utah State law and by this title as a subdivision, and condominium developments must comply with the subdivision regulations of this title.

"**Constitutional taking**" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
(b) Utah Constitution Article I, Section 22.

"**Crosswalk**" (also "walkway" or "pedestrian way") means a right-of-way designed for use by pedestrians and not intended for use by motor vehicles of any kind; a crosswalk or walkway or pedestrian-way may be located within or without a street right-of-way, at grade, or grade separated from vehicular traffic.

"**Cul-de-sac**" means a street which is designed to remain permanently closed at one end, with the closed end terminated by a vehicular turnaround. For purposes of this title, the length of a cul-de-sac shall be measured from the centerline of the intersecting street along the centerline of the cul-de-sac, to a point at the center of the cul-de-sac.

"**Culinary water authority**" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

"**Culinary water facilities**" means water supply lines, pumps, springs, wells and/or any other physical facilities necessary to provide a supply of culinary water to a use in sufficient quantity and of approved quality to meet the standards of this title.

"**Day care center**" or "**child nursery**" means an establishment for the care and/or the instruction of five or more children, for compensation, other than for members of the family residing on the premises, but not including a public school.

"**Density**" is a measure of the number of dwelling units per acre of area. It shall be expressed as dwelling units per acre (DU/acre).

(a) Density, Gross. This is the maximum density that may be permitted in any zoning district.
(b) Density, Net. This is the maximum density permitted on the buildable portion of the site and is calculated by dividing the total number of dwelling units by the net buildable site area. This density controls actual site capacity.

"**Disability**" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment. "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. § 802, as amended.

"**District**" (also "**zone**" or "**zoning district**") means a portion of the territory of the city established as a zoning district by this title, within which certain uniform regulations and requirements or various combinations thereof apply.

"**Driveway**" means a private roadway, the use of which is limited to persons residing, employed, or otherwise using or visiting the parcel on which the roadway is located.

"Dwelling" means any building or portion thereof designed or used for residential purposes, but not including a hotel, motel, hospital, or nursing home. (Ord. 324-11)

"**Dwelling unit"** means one or more rooms within a dwelling, physically arranged with separate bathroom, cooking, and sleeping facilities used as an independent housekeeping unit. (Ord. 324-11)

"**Easement**" means that portion of a lot or lots reserved for present or future use by a person or agency other than the legal owner(s) of said property(ies) . The easement may be for use on, under or above the lot or lots.

"**Elderly person**" means a person who is 60 years old or older, who desires or needs to live with other elderly persons in a group setting, but who is capable of living independently.

"**Exaction**" means a condition, often in the form of impact fees, restrictive covenants or land dedication, imposed at the time of obtaining a building or other development permit used to aid the city in providing public services. Conditional requirements should comply with the standards established in Section 17.44.230 of this code.

"Family" means one or more persons related by blood, marriage, adoption or guardianship or a group of not more than four unrelated persons, living together as a single housekeeping unit. (Ord. 324-11)

"Farm Animal" means any domesticated animal typically found on a farm that is not a dog or cat, such as horses, cattle, pigs, goats, sheep, poultry and fowl. For purposes of this Section, honeybees kept to collect honey and beeswax, pollinate crops, or produce bees to other beekeepers are included in this category. (Ord. 338-12)

"**Final plat**" means a plat map prepared in accordance with the provisions of this title, which is designed to be placed on record in the office of the county recorder.

"**Flag lot**" means a lot with the buildable area at a distance from a public street, with access to that area provided by means of a narrow corridor or extension which connects the lot to a public street.

"Flood hazard" means a hazard to land or improvements due to inundation or overflow water having sufficient velocity to transport or deposit debris, scour the surface soil, dislodge or damage buildings, or erode the banks of water courses.

"**Flood plains**" means areas adjoining any streams, ponds or lakes which are subject to one hundred (100) year-recurrence-interval floods on maps prepared by the Federal Emergency Management Agency (FEMA), or a study conducted by anyone else expert and experienced in the preparation of hydrological studies and the determination of flood lines.

"**Floodplain soils**" means areas subject to periodic flooding and listed in the soil survey prepared by the Federal Emergency Management Agency (FEMA) which encompasses the city as being on the floodplain or subject to flooding.

"**Floor area**" means the sum of the areas of the several floors of the building or structure, including areas used for human occupancy or required for the conduct of the business or use, and basements, attics and penthouses, as measured from the exterior faces of the walls. It does not include cellars, unenclosed porches, attics not used for human occupancy, nor any floor space in an accessory building or in the main building intended or designed for the parking of motor vehicles in order to meet the parking requirements of this title, or any such floor space intended and designed for accessory heating and ventilating equipment.

"**Floor area ratio**" means the ratio of the floor area to the lot area, as determined by dividing the floor area by the lot area.

"**Frontage**" means all property fronting on one side of the street between intersecting or intercepting streets, or between a street and a right-of-way, waterway, end of dead-end street, or political subdivision boundary, measured along the street line. An intercepting street shall determine only the boundary of the frontage on the side of the street which it intercepts, or that common line between a lot and a public street. Street lines across which access is denied or cannot be had because of topography or for other reasons shall not constitute frontage for purposes of this title.

Frontage, Lot. "**Lot frontage**" means the lineal measurement of the front lot line.

"**General Plan**" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

"**Geologic hazard**" means a hazard inherent in the crust of the earth, or artificially created, which is dangerous or potentially dangerous to life, property or improvements, due to the movement, failure or shifting of the earth. Geologic hazards include but are not limited to, rockfills, slide areas, floodplains, fault lines, high water tables, and groundwater problems, such as liquefaction, etc.

"**Grade**" (also "lot grade" or "finished grade") means:

(a) For buildings adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street;
(b) For buildings adjoining more than one street, the average of the elevations of the sidewalk at the centers of all walls adjoining the streets;
(c) For buildings having no wall adjoining the street, the average level of the finished surface of the ground adjacent to the centers of all exterior walls of the building;
(d) Any wall parallel or nearly parallel to and not more than five feet from a street line is to be considered as adjoining the street.

"**Home occupation**" means an occupation of a person which is carried on by that person and/or others within the same family entirely within the dwelling unit in which the person or persons reside and which occupation is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character of the dwelling or of the neighborhood. The home occupation shall not involve the use of any accessory building, either attached or detached, or yard space or activity outside the main building or use of more floor area than the equivalent of fifteen (15) percent of the main floor area of the dwelling unit, nor shall it involve the installation in the dwelling of special equipment and/or fixtures, and plumbing or electrical wiring or such special fixtures or equipment which are not ordinarily or customarily used in a dwelling; provided, however, that outside private swimming pools may be used for swimming instruction if the instruction is given only by members of the family related by blood, marriage or adoption who are residing within the dwelling. Neither shall a home occupation involve the use of any part of a dwelling for which, by reason of any state, federal or local law or ordinance, special or extra entrances or exits, or special rooms are required as a prerequisite condition to the operation of such use or for which such laws or ordinance require a license or permit. The planning commission may impose additional conditions pursuant to a conditional use permit.

"**Hospital**" means an institution providing health services, primarily for in-patients, and medical or surgical care of the sick or injured, including as an integral part of the institution such related facilities as laboratories, outpatient departments, training facilities, central service facilities, and staff offices.

"**Hotel**" means a building designed for or occupied as the more or less temporary abiding place of sixteen (16) or more individuals who are lodged for compensation, with or without meals.

"**Identical plans**" means building plans submitted to a municipality that are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality and describe a building that is:

(a) Located on land zoned the same as the land on which the building described in the previously approved plans is located; and
(b) Subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans.

"**Impervious surface**" means surfaces that do not absorb rain including all buildings, parking areas, driveways, roads, sidewalks, and any areas in concrete and asphalt. Other areas determined by the local engineer to be impervious within the meaning of this definition will also be classed as impervious surfaces.

"**Impervious surface ratio**" means a measure of the intensity of land use determined by dividing the total area of all impervious surfaces within the site by the base site area.

"**Improvement**" means work, objects, devices, facilities or utilities required to be constructed or installed in a land development. Such improvements may include, but are not limited to, street construction to required standards, water facilities, sewer facilities, sidewalks, curbs and gutters, drainage facilities, street trees, street signs, street lights, traffic control or safety devices, fire hydrants, and such other facilities or construction required by this title, subdivision regulations, or by the planning commission and/or city council for the necessary proper development of the proposed land development.

"**Improvements agreement**" means an agreement between the city and a developer, wherein the developer agrees to install improvements required by this title, subdivision regulations, or by the planning commission and/or city council for the necessary proper development of the proposed land development.

"**Junk**" means old or scrap copper, brass, rope, rags, batteries, plastic, paper, trash, rubber, waste, junked, dismantled, or wrecked automobiles or their parts, and iron, steel and other old or scrap ferrous or nonferrous material.

"**Junk dealer**" means all persons, firms or corporations engaged in the business of purchasing or selling secondhand, or castoff material of any kind, such as old iron, copper, brass, lead, zinc, tin, steel, aluminum and other metals, metallic cables, wires, ropes, cordage, bottles, bagging, rags, rubber, paper and other like materials.

"**Junkyard**" means any place, establishment or business maintained, used or operated for storing, keeping, buying or selling junk, or for the maintenance or operation of an automobile graveyard. "Junkyard" includes a salvage yard, war surplus yard, garbage dump, recycling facility, garbage processing facility and sanitary land fill.

"**Kennel**" means any premises where three or more dogs older than four months are kept, except that more than three of such dogs may be kept as accessory uses to a use allowed in the district.

Land, Agricultural. "**Agricultural land**" means land used or projected for agricultural use by the general plan or the zoning ordinance adopted by the city, but not including legally existing nonconforming uses located in areas so projected.

Land, Commercial. "**Commercial land**" means land used or projected for commercial use by the general plan or the zoning ordinance adopted by the city, except legally existing nonconforming uses in areas designated commercial in such ordinance.

Land, Industrial. "**Industrial land**" means land used or projected for industrial use by the general plan or the zoning ordinance adopted by the city, except legally existing non-conforming uses in areas designated industrial in such ordinance.

"**Land use intensity**" means the degree to which land is used by man ranging from no use to unremitting, continual and concentrated use of the land. Land use intensity is normally measured by:

(a) Type of use, i.e., agricultural, residential, commercial or industrial;
(b) Period of use in average hours per day;
(c) Numbers of humans, associated animals, and machines which occupy the land during the average hours of use; and
(d) The percent of the land covered by manmade structures.

"**Land use application**" means an application required by the city's land use ordinance.

"**Land use authority**" means a person, board, commission, agency, or other body designated by the city council to act upon a land use application.

"**Land use ordinance**" means a planning, zoning, development, or subdivision ordinance of the city, but does not include the general plan.

"**Land use permit**" means a permit issued by a land use authority.

"**Legislative body**" means the city council.

"**Lot**" means a parcel or portion of land, established for purposes of sale, lease, finance, division of interest or separate use, or separated from other lands by description on a subdivision map and/or parcel map, and having frontage upon a street.

"**Lot area**" means the area contained within the property lines of the individual parcels of land as shown on a subdivision plat or required by this title, excluding any area within an existing street right-of-way, or any area required as open space under this title, and including the area of any easements.

Lot Area per Dwelling Unit, Average. "**Average lot area per dwelling unit**" means the average lot area for all dwelling units of a single type. Individual lots may be smaller or larger than the average, provided that the average size is maintained and that all other standards of this title are met.

Lot, Corner. "**Corner lot**" means a lot abutting upon two or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees.

"**Lot depth**" means the horizontal distance between the front and the rear lot lines measured in the main direction of the side lot lines.

"**Lot frontage**" means the length, in feet, of the front lot line which is co-terminus with the front street line.

Lot, Interior. "**Interior lot**" means a lot other than a corner lot.

"**Lot line adjustment**" means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record.

Lot Line, Front. "**Front lot line**" means for an interior lot, the lot line adjoining the street; for a corner lot or through lot, the front lot line is that lot line with closest access to the front entry to the house or structure.

Lot Line, Rear. "**Rear lot line**" means, ordinarily, that line of a lot which is opposite and most distant from the front line of the lot. In the case of a triangular or gore-shaped lot, a line ten (10) feet in length within the parcel parallel to and at a maximum distance from the front lot line. In cases where this definition is ambiguous, the zoning administrator shall designate the rear lot line.

Lot Line, Side. "**Side lot line**" means any lot boundary line not a front or rear lot line. However, this does not apply to any yard fronting on a street, which is by definition a front yard line.

Lot, Restricted. "**Restricted lot**" means a lot having an average slope of twenty-five (25) percent or more; a lot which does not contain at least seventy-five (75) feet by one hundred (100) feet, with an average slope of less than fifteen (15) percent; and/or a lot which has vehicular ingress to the main building or structure which, upon completion of construction on the site, has a slope of fifteen (15) percent or greater; or a lot subject to geologic hazards.

Lot, Unrestricted. "**Unrestricted lot**" means a lot having an average slope of less than twenty-five (25) percent and containing a buildable area of at least seventy-five (75) feet by one hundred (100) feet, with an average slope of less than fifteen (15) percent, which buildable area is designated as such on the subdivision plat in which the lot is located, if the average slope of the lot is greater than fifteen (15) percent.

"**Lot width**" means the horizontal distance between the side lot lines, measured at the required front yard setback line or rear yard setback line, whichever is shorter.

"**Merchandise**" means any tangible personal property displayed, held or offered for sale by a merchant in the city.

"**Mobile home**" means a detached single-family dwelling of not less than thirty (30) feet in length, designed for long-term occupancy, and to be transported on its own wheels or on flatbed or other trailers or detachable wheels; and which has not been demonstrated to conform to the building code for other residences adopted by the city. In determining if such a dwelling is designed for long-term occupancy, the following criteria shall be used: Such a dwelling contains a flush toilet, sleeping accommodations, a tub or shower bath, kitchen facilities, and plumbing and electrical connections provided for attachment to appropriate external systems, which is ready for occupancy except for connections to utilities and other minor work.

"**Mobile home lot**" means a space designed and approved by the city for occupancy by mobile homes, and meeting all requirements of this title.

"**Mobile home park**" means a parcel of land that has been planned and improved for the placement of mobile homes for non-transient use and consisting of two or more mobile home spaces, when the entire project is to be under single ownership or management and meets all of the requirements of this title for mobile home parks.

"**Mobile home space**" means a space within a mobile home park designed and to be used for the accommodation of one mobile home.

"**Mobile home subdivision**" means a subdivision designed and intended for residential use where the lots are to be individually owned or leased, and occupied by mobile homes.

"**Moderate income housing**" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in Davis County.

"**Modular home**" means a permanent dwelling structure built in prefabricated units which are assembled and erected on the site or at another location and brought as a unit to the site. Such a home is classed as a mobile home until it is placed on a permanent foundation.

"**Nominal fee**" means a fee that reasonably reimburses the city only for time spent and expenses incurred in:

(a) Verifying that building plans are identical plans; and
(b) Reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

"**Non-complying structure**" means a structure that:

(a) Legally existed before its current land use designation; and
(b) Because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

"**Nonconforming use**" means a use of land that:

(a) Legally existed before its current land use designation;
(b) Has been maintained continuously since the time the land use ordinance governing the land changed; and
(c) Because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

"**Nursing home**" (also "**rest home**" or "**convalescent home**") means a home for the aged, chronically ill, or incurable persons in which three or more persons not of the immediate family are received, kept or provided with food and shelter or care for compensation; but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

"**Official map**" means a map drawn by municipal authorities and recorded in a county recorder's office that:

(a) Shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;
(b) Provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and
(c) Has been adopted as an element of the municipality's general plan.

"**Open space**" means land used for recreation, agriculture, resource protection, amenity or buffers which is freely accessible to all residents of the development, except in the case of agricultural lands where access may be restricted. Open space does not include land occupied by nonrecreational buildings, roads, or road rights-of-way; nor does it include the yards or lots of single or multiple-family dwelling units or parking areas as required by the provisions of this title. Open space should be left in a natural state, except in the case of recreation uses which may contain impervious surfaces. Such impervious surfaces shall be included in the calculation of the impervious surface ratio.

"**Open space ratio**" means a measure of the intensity of land use. It is arrived at by dividing total amount of open space within the site by the base site area.

"**Outdoor merchandising**" means displaying, holding or offering any tangible personal property for sale by a merchant in the open areas of the lot.

"**Outdoor storage**" means the use of open areas of the lot for storage of items used for non-retail or industrial uses and the storage of bulk materials such as sand, gravel and other building materials. "Outdoor storage" also includes contractor's yards and salvage or recycling areas. "Outdoor storage" does not mean tangible personal property displayed, held or offered for sale by a merchant in the open areas of the lot.

"**Parking facility**" (also "**parking lots**" or "**parking structures**") means a building or open area, other than a street, used for the parking of more than four automobiles and available for public use, whether free, for compensation, or accommodation for clients or customers.

"**Permanent monument**" means any structure of concrete, masonry and/or metal permanently placed on or in the ground, including those expressly placed for surveying reference, which meets the requirements of the city for permanent monuments.

"**Permitted use**" means a use of land which is allowed within a particular district without the necessity of obtaining a conditional use permit.

"**Person**" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

"**Planned unit development (PUD**)" means an integrated design for development of residential, commercial or industrial uses, or limited combinations of such uses, in which the density and location regulations of the district in which the development is situated may be varied or waived to allow flexibility and initiative in site and building design and location, in accordance with an approved plan and imposed requirements. Planned unit development regulations may govern the subdivision of land if it is proposed by the development to sell individual lots in the planned unit development. Thus planned unit development regulations can be subdivision regulations which may be chosen by the developer as an alternative to specifically designated subdivision regulations of this title, to become effective only through the planned unit development approval process.

"**Plan for moderate income housing**" means a written document adopted by the city council that includes:

(a) An estimate of the existing supply of moderate income housing located within the city;
(b) An estimate of the need for moderate income housing in the city for the next five years as revised biennially;
(c) A survey of total residential land use;

(d) An evaluation of how existing land uses and zones affect opportunities for moderate income housing; and
(e) A description of the city's program to encourage an adequate supply of moderate income housing.

"**Principal use**" means any use which is named and listed in the use regulation provisions of this title, except those uses specifically designated as accessory uses; any use which is or may be conducted on a lot independently; any use on the lot not incidental or accessory to any other use on the lot; any use which establishes the primary activity on a lot.

"**Public hearing**" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

"**Public meeting**" means a meeting that is required to be open to the public under Utah Code Annotated, Title 52, Chapter 4, Public and Open Meetings Act.

"**Residential facility for disabled family member**" means a separate dwelling unit within a single-family dwelling that provides independent living arrangements for a person with a disability who is related by blood, marriage, adoption or guardianship to the family occupying the single-family dwelling. A dwelling housing a residential facility for disabled family member must appear from its exterior to be a single-family dwelling, and its interior must provide for access between the separate dwelling units. O more than two separate residential facilities for disabled family member shall, in addition to the primary single-family dwelling unit, shall be allowed in any single-family dwelling. A conditional use permit for a residential facility for disabled family member may be issued for a period of two years. The permit may be renewed for successive two-year periods upon submission to the city of a report identifying the facility's occupants, and certifying the disability of one or more of the occupants as well as compliance with the zoning ordinance.

"**Residential facility for elderly persons**" means a single-family or multiple-family dwelling unit that meets the requirements of Utah Code Ann. § 10-9a-516, but does not include a health care facility as defined by Utah Code Ann. § 26-21-2.

"**Residential facility for persons with a disability**" means a residence:
(a) In which more than one person with a disability resides; and
(b) Is licensed or certified by the Department of Human Services under Utah Code Annotated, Title 62A, Chapter 2, Licensure of Programs and Facilities or is licensed or certified by the Department of Health under Utah Code Annotated, Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.
(c) Which meets the requirements of Utah Code Ann. § 10-9-605, as amended.

"**Residential health care facility**" means a facility providing assistance with activities of daily living and social care of two or more residents who require protected living arrangements. Residents shall meet the following criteria before being admitted:
(a) Be ambulatory or mobile and be capable of taking life-saving action in an emergency;
(b) Have stable health and:
  (i) require no assistance or only minimal assistance from facility staff in the activities of daily living,
  (ii) be capable of managing their own medication,
  (iii) be able to manage their personal hygiene;
(c) A physician shall provide a written statement that the resident is capable of functioning in a residential care facility with minimal assistance.

"**Right-of-way**" means that portion of land dedicated to public use for street and/or utility purposes or maintained in private use for similar purposes.

"**Roadway width**" means the street measurement taken from curb to curb; in instances where there is battered or roll curb, this measurement is taken to the back of curbs.

"**Sanitary sewer authority**" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

"**Scrap metal processor**" means any person who, from a fixed location, utilizes machinery and equipment for processing and manufacturing iron, steel or nonferrous scrap into prepared grades, and whose principal product is scrap iron, scrap steel, or nonferrous metallic scrap, not including precious metals, for sale for re-melting purposes.

"**Sign**" means a presentation or representation of words, letters, figures, designs, pictures or colors, publicly displayed so as to give notice relative to a person, a business, an article or merchandise, a service, an assemblage, a solicitation, or a request for aid; also, any lighting systems, attachments, ornaments or other features used to draw the attention of observers.

"**Sign area**" means the entire background area of a sign upon which copy could be placed. In computing area of a sign background, only the face or faces which can be seen from one direction at one time shall be counted. The supporting incidental structure of the sign shall not be used in computing sign area.

Sign**,** Height of. "**Height of sign**" means the vertical distance measured from the nearest finished grade to the top of the sign, excluding any superficial trim. In the case of a roof sign, the maximum height shall be measured from the roof line or the parapet level, if applicable, at the location of such sign.

Sign, Off-Premise. "**Off-premise sign**" means a sign which advertises a product or service not available on the premises where the sign is located.

"**Site**" means a parcel or parcels of land intended to have one or more buildings or intended to be subdivided into one or more lots.

"**Site area**" means all land area within the site as defined in the deed. Area shall be from an actual survey rather than from a deed description.

"**Site plan**" means a scaled drawing of and information pertaining to a proposed development site.

"**Snipe signs**" means signs attached to trees, telephone poles, public benches, streetlights or placed on any public property or public right-of-way.

"**Storage**" means keeping or retaining tangible personal property in the city for any purpose including the storage of tangible personal property used for nonretail or industrial trade. "Storage" does not include keeping or retaining tangible personal property held for sale in the regular course of business.

"**Streets**" means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way. Streets may be public or private. Public streets are those streets which have been dedicated or abandoned to the public and then accepted by proper

public authority. All other streets are private streets. Streets may also be classified as to ability to channel traffic. A minor (or local) street is thus a street, existing or proposed, which serves or is intended to serve the local needs of a neighborhood and is of limited continuity. A collector street is a street, existing or proposed, which is a primary means of access to major streets. A major street, on the other hand, is a street, existing or proposed which serves or is intended to serve as a primary traffic artery. Streets are generally identified as to their traffic-carrying role by so designating each street on the master street plan of the city.

Street, Frontage. "**Frontage Street**" means a minor street which is parallel to and adjacent to a limited access major street and which provides access to abutting properties and protection from through traffic.

"**Structure**" means anything constructed, the use of which requires fixed location on the ground, or attachment to something having a fixed location upon the ground, including "buildings."

"**Subdivider**" means any person, firm, corporation, partnership or association who causes land to be divided into a subdivision.

"**Subdivision**" means any land that is divided, re-subdivided or proposed to be divided into two or more lots, parcels, sites, units, plots or other division of land for the purpose, whether immediate or future, of offer, sale, lease or development either on an installment plan or upon any and all other plans, terms and conditions; see section 16.04.020 for more information regarding “subdivisions”.

"**Tangible personal property**" means:

(a) All goods, wares, merchandise, produce and commodities;
(b) All tangible or corporeal things and substances which are dealt in or capable of being possessed or exchanged;
(c) Water in bottles, tanks or other containers;
(d) All other physically existing articles or things, including property severed from real estate.

“**Unincorporated**” means the area outside of the incorporated area of a city or town.

"**Wetlands**" means areas known as marshes, swamps or wetlands, including areas greater than one-quarter acre where standing water is retained for a portion of the year and unique vegetation has adapted to the area or those areas specifically so designed by the Army Corps of Engineers.

"**Yard**" means a required open space on a lot, other than a court, unoccupied and unobstructed from the ground upward, except as permitted elsewhere in this title.

Yard, Front. "**Front yard**" means a space on the same lot with a building, between the front line of the building and the front lot line, and extending across the full width of the lot. The "depth" of the front yard is the minimum distance between the front lot line and the front line of the building. (Note: On a corner lot there are two front yards.)

Yard, Rear. "**Rear yard**" means a space on the same lot with a building, between the rear line of the building and the rear lot line, and extending the full width of the lot. The "depth" of the rear yard is the minimum distance between the rear lot line and the rear line of the building.

Yard, Side. "**Side yard**" means a space on the same lot with a building, between the side line of the building and the side lot line and extending from the front yard to the rear yard. The "width" of the side yard shall be

the minimum distance between the side lot line and the side line of the building. (Note: Corner lots do not have two side yards.)

"**Zoning administrator**" means the building inspector or other person designated by the city council to enforce the regulations of this title. (Ord. 269-00 (part); Ord. 264-00 (part); Ord. 253-98 (part); prior code § 9-4-1)

"**Zoning map**" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Chapter 17.08 ADMINISTRATION, CONSTRUCTION AND ENFORCEMENT

Sections:

17.08.010 Interpretation of provisions.

In interpreting and applying the provisions of this title, the requirements contained herein are declared to be the minimum requirements for the purposes set forth. (Prior code § 9-1-3)

17.08.020 Conflict of provisions.

This title shall not nullify the more restrictive provisions of covenants, agreements or other ordinances or laws, but shall prevail notwithstanding such provisions which are less restrictive. (Prior code § 9-1-4)

17.08.030 Effect on previous ordinances and maps.

The existing ordinances covering zoning, in their entirety, and including the maps heretofore adopted and made a part of said ordinances, are superseded and amended to read as set forth herein; provided, however, that this title, shall be deemed a continuation of previous codes and not a new enactment, insofar as the substance of revisions or previous codes is included in this title, whether in the same or in different language. This title, with other applicable provisions of these ordinances, shall be so interpreted upon all questions of construction relating to tenure of officers and boards established by previous codes to questions of conforming or non-conforming uses and buildings and structures, and to questions as to the dates upon which such uses, buildings or structures became conforming or nonconforming. (Prior code § 9-1-5)

17.08.040 Licensing.

All departments, officials and public employees of the city which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this title and shall issue no permit or license for uses, buildings or purposes when the same would be in conflict with the provisions of this title, or other applicable provisions of these ordinances. Any such permit or license issued in conflict with the provisions hereof shall be null and void. (Prior code § 9-1-6)

17.08.050 Legal remedies for violation.

Any person, firm or corporation, whether as principal, agent or employee, who violates or causes the violation of any of the provisions of this title shall be guilty of a Class B misdemeanor and upon conviction thereof shall be punished as provided by law.

In addition the following may institute injunction, mandamus, abatement or any other appropriate action or proceeding to prevent, enjoin, abate or remove such unlawful erection, construction, reconstruction, alteration, or maintenance or use:

A. The city by action of the city council; or

B. Any owner of real estate within the zoning district in which an alleged violation of this title has occurred. (Prior code § 9-1-7)

17.08.060 Zoning administrator--Appointment.

The position of zoning administrator is established. The zoning administrator shall be appointed by the mayor with the advice and consent of the city council. The zoning administrator shall have the powers and duties as are set forth herein. (Prior code § 9-5-1)

17.08.070 Zoning administrator--Ordinance interpretation.

The zoning administrator is authorized to interpret this zoning code and the zoning map. (Prior code § 9-5-2)

17.08.080 Zoning administrator--Application.

Applications for all use permits, site plan approvals, conditional use permits, zoning amendments, and certificates of non-conformance shall be made to the zoning administrator. (Prior code § 9-5-3)

17.08.090 Zoning administrator--Building permits--Review.

All building permits shall be reviewed and approved by the zoning administrator for conformance to the requirements of this title prior to issuance. (Prior code § 9-5-4)

17.08.100 Zoning administrator--Inspection.

The zoning administrator shall have the right to enter any property or building for the purpose of determining the use thereof or for the purpose of determining compliance with the provisions of this title; provided, that such right of entry shall be exercised only at reasonable hours and that in no case shall entry be made to any occupied building in the absence of the owner or tenant thereof without the written order of a court of competent jurisdiction. (Prior code § 9-5-5)

17.08.110 Enforcement authority.

The zoning administrator is designated and authorized as the officer charged with the enforcement of this title. The zoning administrator shall enforce all the provisions of this title, entering actions in a court of competent jurisdiction when necessary. Failure to take such action by the zoning administrator shall not legalize any violation of the provisions of this title. (Prior code § 9-5-6)

Chapter 17.12 ZONING DISTRICTS ESTABLISHED

Sections:

17.12.010 Establishment of zoning districts.

For the purposes of this title, the territory of the city is divided into the following zoning districts as shown on the official zoning maps herewith adopted as part of the zoning ordinance of the city:

A. Agricultural district, A-1;

B. Residential district, R-1-22;

C. Residential district, R-1-10;

D. Neighborhood commercial district, C-N;

E. General commercial district, C-G;

F. Highway commercial, C-H;

G. Light industrial district, L-I; and

H. General industrial district, I-G.

The designation of a district on the zoning map of the city shall officially and legally constitute the area so designated and contained within the district as part of said district and subject to the use and building privileges, limitations and conditions relating to such district as set forth in this title and elsewhere in these ordinances. (Prior code § 9-6-1)

17.12.020 Filing of zoning code and map.

This zoning code and map or maps shall be filed in the custody of the city recorder and may be examined by the public subject to the reasonable regulations established by the recorder. (Prior code § 9-6-2)

17.12.030 Rules for locating boundaries.

When uncertainty exists as to the boundary of any district, the following rules shall apply:

A. Wherever the district boundary is indicated as being approximately upon the centerline of a street, alley or block, or along a property line, then, unless otherwise definitely indicated on the map, the centerline of such street, alley, block or such property line shall be construed to be the boundary of such district;

B. Whenever such boundary line of such district is indicated as being approximately at the line of any river, irrigation canal or other waterway, or railroad right-of-way, or public park or other public land, or any section line, then the center of such river or stream, canal or waterway, or of such railroad right-of-way, or the boundary line of such public land or such section line shall be deemed to be the boundary of such district;

C. When district boundary lines cannot be determined by the above rules, their location may be found by the use of the scale appearing upon the map;

D. When the application of the above rules does not clarify the district boundary location, the planning commission shall interpret the map; and

E. When a zoning district boundary cuts through a lot existing at the time of adoption of this zoning code, the use regulations governing the portion of the lot located within the more restrictive zone shall govern the use and development of the entire lot, unless a variance has been granted by the board of adjustment in accordance with the limitations of Section 16.24.010, and except for legally existing non-conforming uses and buildings on the lot. (Prior code § 9-6-3)

17.12.040 Authorized uses within districts are plenary.

The uses of land allowed in each district shall be plenary and uses of land not specifically allowed as set forth therein shall be prohibited in the respective district. (Prior code § 9-6-4)

17.12.050 Additional requirements in each district.

In addition to the requirements imposed within each district, the requirements of Chapters 17.08, 17.48 and 17.56 are applicable in all districts. Requirements of Chapters 17.32, 17.36, 17.40, 17.44 and 17.60 may also be applicable in each of the other districts, and the applicability of these chapters shall be evidenced by the zoning map and/or pertinent sections of this title. (Prior code § 9-6-5)

17.12.060 Zoning at time of annexation.

If land is to be annexed to the city, the planning commission and city council shall proceed with rezoning procedures as required for land within the city and shall declare the land upon annexation to be zoned to the zoning district or districts determined appropriate by such procedures and by declaration of the city council. (Prior code § 9-6-6)

Chapter 17.16 Agricultural District A-1

Sections:

17.16.010 Purpose.

The purpose of providing the agricultural district A-1 is to promote and preserve in appropriate areas conditions favorable to agriculture and to maintain greenbelt open spaces. This district is intended to include activities normally and necessarily related to the conduct of agriculture and to protect the district from the intrusion of uses harmful to the continuance of agricultural activity. It is also intended to allow and promote conditions favorable to large-lot family life, the keeping of limited numbers of animals and fowl, and reduced requirements for public utilities.

17.16.020 Permitted uses.

The following are permitted in the agricultural districts A-1:

A. Agriculture;
B. Farm Animals, (see Section 17.16.080);
C. Single family dwellings; and
D. Residential facilities for person with disability.

17.16.030 Conditional Uses.

The following uses are conditional in the agricultural district A-1:

A. Equestrian facilities, commercial stables;
B. Public or quasi-public uses;
C. Child day care or nursery;
D. Flag lots;
E. Home occupations;
F. Natural resource extraction;
G. Planned unit development (PUD);
H. Residential facility for elderly persons;
I. Kennels;
J. Residential facility for a disabled family member;
K. Restricted Lots (see definitions (Section 17.04.030));
L. Accessory Dwelling Units (ADU).

17.16.040 Area and frontage regulations.

The following area and frontage regulations apply in the agricultural district A-1:

A. The minimum residential lot size shall be one acre; this shall not apply to PUDs which shall be regulated by provisions of Chapter 17.68;

B. The minimum lot width shall be eighty-five (85) feet;

C. Any lot legally held in separate ownership at the time of adoption of this zoning code, which lot is below the requirements for lot area or lot width for the district in which it is located and on which lot a dwelling would be permitted if the lot met the area requirements of the zoning code may be used for a single family dwelling if such a lot is located in the A-1 zoning district. The width of each of the side yards for such a dwelling may be reduced to a width which is not less than the same percentage of the lot width as the required side yard would be of the required lot width; provided that in no case shall the smaller of the two side yards be less than five (5) feet nor shall the total width of the two side yards be less than thirteen (13) feet.

17.16.045 Every dwelling to be on a lot – exceptions.

Every dwelling structure shall be located and maintained on a separate lot having no less than the minimum area, width, depth and frontage required by this title for the district in which the dwelling structure is located, except that farm or ranch dwellings, group dwellings, condominiums and other multi structure dwellings, complexes under single ownership and management, which are permitted by this title and have approval by the planning commission, may occupy a single lot. (Ord. 328-11)

17.16.050 Yard regulations.

The following regulations apply in the agricultural district A-1:

A. **Front yard.** The minimum side front yard setback for all structures shall be thirty (30) feet. The setback is measured to the nearest foundation or column. A maximum two-foot cantilever into the setback area such as a bay window is allowed.

B. **Side yard.** The minimum side yard setback shall be ten (10) feet for any one side and a combined total of twenty four (24) feet for both sides, for all main structures. Minimum side yard setback for accessory structures shall be six (6) feet, unless fire coded (three (3) feet minimum if fire code is used) or unless otherwise approved by the planning commission. On corner lots, the side yard facing the street shall be not less than twenty (20) feet for both principal use and accessory use structure or buildings; and

C. **Rear yard**. The minimum rear yard for all mains structures, shall be thirty (30) feet. The setback is measured to the nearest foundation or column. A maximum two foot cantilever into the setback area such as a bay window or chimney that does not extend to the ground is allowed. Minimum rear yard setback for accessory structures shall be six (6) feet, unless fire coded (three (3) feet minimum if fire code is used), or unless otherwise approved by the planning commission.

D. **Distance between main structures and accessory buildings.** The minimum distance between all main structures and accessory use buildings shall be (10) feet, unless otherwise approved by the planning commission.

E. **No building on recorded easements.** Main structures and permanent accessory buildings shall not be built on or over any recorded easement (i.e. Public Utility Easements, etc.).

F. Except as otherwise provided in this title, every lot presently existing or hereafter created shall have such area, width and depth as is required by this title for the district in which such lot is located and shall have frontage upon a public street or upon a private street or right-of way approved by the planning commission, before a building permit may be issued; provided, that no lot containing three acres or less shall be created which is more than three times as long as it is wide (Ord. 328-11)

G. **Yard space for one building only.** No required yard or other open space around an existing building or which is hereafter provided around any building for the purpose of complying with the provisions of this title shall be considered as providing a yard or open space for any other building. Nor shall any yard or other required open space on an adjoining lot be considered as providing a yard or open space on a lot whereon a building is established.

H. **Area of structure and accessory building.** No structure or accessory building or group of structures or accessory buildings in any residential district shall cover more than twenty five percent (25%) of the rear yard.

I. **Sales or lease of space.** No space needed to meet the width, yard, area, coverage, parking or other requirement of this title for lot or building may be sold or leased away from such lot or building.

J. **Yards to be unobstructed – Exceptions.** Every part of a required front yard, rear yard or side yard shall be open to the sky, unobstructed except for permitted accessory structures, including buildings, in a rear yard; ordinary architectural projections of sky-lights, sills belt courses, cornices, chimneys, flues; and other ornamental features which project into a yard not more than two and one half (2 ½) feet; open or lattice-enclosed fire escapes; and fireproof outside stairways and balconies opening upon fire towers projecting into a yard no more than five (5) feet. Architectural projections are those projections not intended for occupancy which extend beyond the face of a building or structure. Landscape enhancements, including but not limited to arbors, ponds, decorative walkways, and retaining structures, with a gross area of 120 square feet or less and a height of twenty four (24) inches or less (except arbor or trellis openings width not greater than sixty (60) inches, depth not greater than twenty four (24) inches and height no greater than ninety six (96) inches) shall be allowed within any front yard, side yard or rear yard setback area. Structures identified as exempt from a building permit, with the exception of fences, retaining walls, and access walkways or driveways, shall not be placed or constructed within any front yard or corner street-side side yard setback area.

17.16.055 Lots and dwellings fronting on private streets- special provisions.

Lots with frontage only on private streets require planning commission approval and shall be subject to all applicable requirements of this title.

17.16.60 Height regulations.

A. **Maximum height of structures.** No structure shall be erected to a height greater thirty-five (35) feet.

B. **Additional height allowed.** Public buildings and quasi-public buildings may be erected to a height greater than thirty-five (35) feet when approved by the planning commission.

C. **Exceptions to height limitations**. Penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building; and fire or parapet walls, skylights, towers, steeples, flagpoles, chimneys, smokestacks, water tanks, wireless or television masts, theater lofts, silos or similar structures may be erected above the height limits herein prescribed, but no space above the height limit shall be allowed for the purpose of providing additional floor space, and such increased height is subject to all other ordinances and regulations of the city.

D. **Minimum height of dwellings**. No dwelling shall be erected to a height less than one story above grade.

17.16.070 Density.

The maximum net density allowed shall be one unit per acre.

17.16.080 Farm animal regulations.

A. Farm animals may be kept on properties according to the following requirements:

1. For each acre, a parcel, or adjacent properties, whether owned or leased, shall be eligible to contain or house farm animals rating one hundred (100) points or prorated for any part thereof.

    a. Large animals such as horses, ponies, donkeys, mules, llamas and cows require a minimum area of .4 acres: Forty (40) points each.
    b. Medium animals such as sheep and goats, and other animals of similar size: Twenty (20) points each.
    c. Small animals such as ducks, chickens, geese, rabbits and turkeys: Four (4) points each.
    d. Pigs, provided that pens are located at least two hundred (200) feet from neighboring dwellings: Forty (40) points each.
    e. Miniature or pygmy farm animals will have one-half the points of the normal sized species.

2. The points listed in Section 1 may be decreased for large and small animals subject to approval of a conditional use permit by the planning commission. The minimum points allowed for each large animal is twenty-five (25) points and the minimum allowed for each small animal is two (2) points.

3. Dependent offspring shall not be counted in determining the total number of animals on the parcel(s).

4. Honeybees, pursuant to the requirements of Title 4, Chapter 11 of the Utah Code.

B. For multiple properties to be eligible for combined point calculation under Subsection A, the following criteria must be met:

1. The properties shall be owned or leased by the same person or entity.
2. All properties used for the combined point calculation must be contiguous.
3. If one or more properties are leased:
    a. The lease must be in writing and signed by both parties.
    b. The leased property must be used in some meaningful way by lessee in the keeping of farm animals.

C. All animals, except bees, must be kept in an area enclosed by a fence or structure sufficient to prevent escape.

D. Setbacks - No animal shelter, including pens, coops and beehives, may be located less than six (6) feet from any property line or dwelling.

1. Barns, stables, corrals, or similar structures used to house medium and large animals may not be located less than seventy-five (75) feet from any neighboring dwelling.

2. An apiary, housing colonies of bees, must be at least six (6) inches above the ground and, if located less than fifteen (15) feet from a property line, a solid six (6) foot vertical barrier running along or near the property line and extending at least four (4) feet beyond the apiary in each direction is required.

3. Setbacks for all structures shall meet applicable zoning requirements for each parcel

E. To protect the health, safety and welfare of the animals and the public, animal waste, debris, noise, odor, and drainage shall be kept in accordance with usual and customary health standards associated with that type of animal.

F. Failure to comply with any portion of this section shall invalidate any use specified in this section and shall subject the owner to penalties and/or fines as specified elsewhere in this title.

17.16.090 Reserved.

17.16.100 Fence requirements.

A. Fences, walls and hedges may not exceed six feet in height within any required rear yard or interior side yard. Notwithstanding the foregoing, the planning commission may approve the erection of a fence to a height greater than six feet within any required rear yard or interior side yard upon a showing that the increased height is reasonably necessary to protect the property from an adjacent incompatible land use.

B. Notwithstanding any other provision of this Title, no fence, wall, or hedge may exceed four (4) feet in height within any front yard setback; and, within three (3) feet of any street line or inside of sidewalk (whichever is closer to the primary building on the lot), no fence, wall, or hedge may exceed two (2) feet in height. (Ord. 328-11)

C. For the purpose of this section, single shrub planting shall not constitutes a hedge if the closest distance between the foliage of any two plants is and remains at least five (5) feet.

D. When a fence, wall or hedge is located along a property line separating two lots and there is a difference in the grade of the properties on the two sides of the property line, the fence, wall or hedge may be erected or allowed to the maximum height permitted as measured from the higher grade. (Ord. 328-11)

E. Clear view of intersecting streets.

In all districts which require a front yard no obstruction to view in excess of two feet in height shall be placed on any corner lot within a triangular area formed by the street property lines and a line connecting them at points (40) feet from the intersection of the street lines, except pedestal type identification signs and pumps at a gasoline service station, and a reasonable number of trees pruned so as to permit unobstructed vision to traffic.

Chapter 17.20 Residential District R-1-22

Sections:

17.20.010 Purpose.

The residential district R-1-22 is established to provide for very low density single-family residential neighborhoods of spacious and un-crowded character. The regulations of this chapter provide for single - family dwellings and, with proper concern for potential impact, special residential developments, and certain public and quasi-public activities that will serve the needs of families. The regulations are intended to preserve and enhance residential character and lifestyle

17.20.020 Permitted uses.

The following uses are permitted in the residential district R-1-22:

A. Agricultural;
B. Single-family dwellings;
C. Farm animals (see Section 17.20.080); and
D. Residential facility for persons with a disability.

17.20.030 Conditional uses.

The following uses are conditional in the residential district R-1-22:

A. Child day care or nursery;
B. Flag lot;
C. Home occupation;
D. Planned unit development;
E. Public, quasi-public uses;
F. Residential facility for elderly persons (Ord. 251-98).
G. Accessory Dwelling Units (ADU); and
H. Restricted lots (see Definitions (Section 17.04.030)).

17.20.040 Area, width and frontage regulations.

The following area width and frontage regulations apply in the residential district R-1-22:

A. Minimum residential lot size shall be one-half acre;
B. Minimum lot width at the front yard setback line shall be eighty-five (85) feet;

C. Minimum lot frontage shall be fifty (50) feet.
D. Any lot legally held in separate ownership at the time of adoption of this zoning code, which lot is below the requirements for lot area or lot width for the district in which it is located and on which lot a dwelling would be permitted if the lot met the area requirements of the zoning code, may be used for a single family dwelling, if such lot is located in the R1-22 zoning district. The width of each of the side yard for such a dwelling may be reduced to a width which is not less than same percentage of the lot width as the required side yard would be of the required lot width; provided that in no case shall the smaller of the two side yards be less than five feet, nor shall the total width of the two side yards be less than thirteen (13) feet.

17.20.045 Every dwelling to be on a lot – exceptions.

Every dwelling structure shall be located and maintained on a separate lot having no less than the minimum area, width, depth and frontage required by this title for the district in which the dwelling structure is located, except that farm or ranch dwellings, group dwellings, condominiums and other multi structure dwellings, complexes under single ownership and management, which are permitted by this title and have approval by the planning commission, may occupy a single lot. (Ord. 328-11)

17.20.050 Yard regulations.

The following yard regulations apply in the residential district R-1-22:

A. **Front yard.** Minimum front yard setback for all structures shall be thirty (30) feet. The setback is measured to the nearest foundation or column. A maximum two foot cantilever into the setback area such as a bay window or chimney that does not extend to the ground is allowed.

B. **Side yard.** Minimum side yard setback for any one slide shall be ten (10) feet for any one side, and a combined total of twenty-four (24) feet for both sides, for all main structures. Minimum side yard setback for accessory structures shall be six (6) feet, unless fire coded (three (3) feet minimum if fire code is used) or unless otherwise approved by the planning commission. On corner lots, the side yard facing the street shall be not less than twenty (20) feet.

C. **Rear yard.** The minimum rear yard for all main structures shall e thirty (30) feet. The setback is measured to the nearest foundation or column. A maximum two foot cantilever into the setback area such as a bay window or chimney that does not extend to the ground is allowed. Minimum rear yard setback for accessory structures shall be Ten (10) feet unless fire coded (three (3) feet minimum if fire code is used), or unless other approved by the planning commission.

D. **Distance between main structures and accessory building.** The minimum distance between all main structures and accessory buildings shall be ten (10) feet, unless otherwise approved by the planning commission.

E. **No buildings on recorded easements.** Main structures and permanent accessory buildings shall not be built on or over any recorded easement (i.e. Public Utility Easement, etc.).

F. **Lot standard and street frontage.** Except as otherwise provided in this title, every lot presently existing or hereafter created shall have such area, width and depth as is required by this title for the district in which such lot is located and shall have frontage upon a public street or upon a private street or right-of-way as approved by the planning commission, before a building permit may be issued; provided, that no lot containing three acres or less shall be created which is more than three times as long as it is wide. (Ord. 328-11)

G. **Yard space for one building only.** No required yard or other open space around an existing building or which is hereafter provided around an existing building or which is hereafter provided around any building for the purpose of complying with the provisions of this title shall be considered as providing a yard or open space for any other building. Nor shall any yard or other required open space on an adjoin lot be considered as providing a yard or open space on a lot where on a building is established.

H. **Area of structures and accessory building.** No structure or accessory building or group of structures or accessory buildings in any residential district shall cover more than twenty five precedent (25%) of the rear yard.

I. **Sale or lease of space.** No space needed to meet the width, yard, area, coverage, parking or other requirements of this title for lot or building may be sold or leased away from such lot or building.

J. **Yards to be unobstructed – exceptions.** Every part of a required front yard, rear yard or side yard shall be open to the sky, unobstructed except for permitted accessory structures, including buildings, in a rear yard; ordinary architectural projections of sky-lights, sills, bet courses, cornices, chimneys, flues; and other ornamental features which project into a yard not more than two and one half (2 ½) feet; open or lattice-enclosed fire escapes; and fireproof outside stairways and balconies opening upon fire towers projecting into a yard no more than five feet. Architectural projections are those projections not intended for occupancy which extend beyond the face of a building or structure. Landscape enhancements, including but not limited to arbors, ponds, decorative walkways, and retaining structures, with a gross area of 120 square feet or less and a height of 24 inches or less) except arbor or trellis openings with a width not greater than 60 inches, depth not greater than 24 inches and height not greater than 96 inches, shall be allowed within any front yard, side yard or rear yard set-back area. Structures identified as exempt from a building permit, with the exception of fences, retaining walls, and access walkways or driveways, shall not be placed or constructed within any front yard or corner street-side side yard setback area.

17.20.055 Lots and dwellings fronting on private streets – special provisions.

Lots with frontage only on private streets shall require planning commission approval and shall be subject to all applicable requirements of this title.

17.20.060 Height regulations.

A. No main structure shall be erected to a height greater than thirty five (35) feet as measured from the lowest finished ground level to the highest roof structure including chimney structures. Accessory buildings shall not be erected to a height greater than one story or twenty (20) feet whichever is lower,

or be higher or contain greater square foot floor area than the principal building to which is accessory unless otherwise approved by the planning commission.

B. **Additional height allowed.** Public buildings and quasi-public buildings may be erected to a height greater than thirty-five (35) feet when approved by the planning commission.

D. **Exceptions to height limitations.** Penthouse or roof structures for the housing of elevators, stairways, tanks ventilating fans or similar equipment required to operate and maintain the building; and fire or parapet walls, skylights, towers, steeples, flagpoles, chimneys, smokestacks, water tanks, wireless or television masts, theater lofts, silos or similar structures may be erected above the height limits herein prescribed, but no space above the height limit shall be allowed for the purposes of providing additional floor space and such increased height is subject to all other ordinances and regulations of the city.

E. **Minimum height of dwellings.** No dwelling shall be erected to a height less than one story above grade.

17.20.070 Density.

The maximum net density allowed shall be two (2) units per acre.

17.20.80 Farm animal regulations.

A. Farm animals may be kept on properties according to the following requirements:

1. For each acre, a parcel, or adjacent properties, whether owned or leased, shall be eligible to contain or house farm animals rating one hundred (100) points or prorated for any part thereof.

    a. Large animals such as horses, ponies, donkeys, mules, llamas and cows require a minimum area of .4 acres: Forty (40) points each.
    b. Medium animals such as sheep and goats, and other animals of similar size: Twenty (20) points each.
    c. Small animals such as ducks, chickens, geese, rabbits and turkeys: Four (4) points each.
    d. Pigs, provided that pens are located at least two hundred (200) feet from neighboring dwellings: Forty (40) points each.
    e. Miniature or pygmy farm animals will have one-half the points of the normal sized species.

2. The points listed in Section 1 may be decreased for large and small animals subject to approval of a conditional use permit by the planning commission. The minimum points allowed for each large animal is twenty-five (25) points and the minimum allowed for each small animal is two (2) points.

3. Dependent offspring shall not be counted in determining the total number of animals on the parcel(s).

4. Honeybees, pursuant to the requirements of Title 4, Chapter 11 of the Utah Code.

B. For multiple properties to be eligible for combined point calculation under Subsection A, the following criteria must be met:

1. The properties shall be owned or leased by the same person or entity.
2. All properties used for the combined point calculation must be contiguous.
3. If one or more properties are leased:
    a. The lease must be in writing and signed by both parties.
    b. The leased property must be used in some meaningful way by lessee in the keeping of farm animals.

C. All animals, except bees, must be kept in an area enclosed by a fence or structure sufficient to prevent escape.

D. Setbacks - No animal shelter, including pens, coops and beehives, may be located less than six (6) feet from any property line or dwelling.

1. Barns, stables, corrals, or similar structures used to house medium and large animals may not be located less than seventy-five (75) feet from any neighboring dwelling.

2. An apiary, housing colonies of bees, must be at least six (6) inches above the ground and, if located less than fifteen (15) feet from a property line, a solid six (6) foot vertical barrier running along or near the property line and extending at least four (4) feet beyond the apiary in each direction is required.

3. Setbacks for all structures shall meet applicable zoning requirements for each parcel

E. To protect the health, safety and welfare of the animals and the public, animal waste, debris, noise, odor, and drainage shall be kept in accordance with usual and customary health standards associated with that type of animal.

F. Failure to comply with any portion of this section shall invalidate any use specified in this section and shall subject the owner to penalties and/or fines as specified elsewhere in this title.

17.20.090 Reserved.

17.20.100 Fence requirements.

A. Fences, walls and hedges may not exceed six feet in height within any required rear yard or interior side yard. Notwithstanding the foregoing, the planning commission may approve the erection of a fence to a height greater than six feet within any required rear yard or interior side yard upon a showing that the increased height is reasonably necessary to protect the property from an adjacent incompatible land use.

B. Notwithstanding any other provision of this Title, no fence, wall, or hedge may exceed four (4) feet in height within any front yard setback; and, within three (3) feet of any street line or inside of sidewalk (whichever is closer to the primary building on the lot), no fence, wall, or hedge may exceed two (2) feet in height. (Ord. 328-11)

C. For the purpose of this section, single shrub planting shall not constitute a hedge if the closest distance between the foliage of any two plants is remains at (5) feet.

E. When a fence, wall or hedge is located along a property line separating two lots and there is a difference in the grade of the properties on the two sides of the property line, the fence, wall or hedge may be erected or allowed to the maximum height permitted as measured from the higher grade. (Ord. 328-11)

F. Clear view of intersecting streets.

In all districts which require a front yard, no obstruction to view in excess of two feet in height shall be placed on any corner lot within a triangular area formed by the street property lines and a line connecting them at points forty (40) feet from the intersection of the street lines, except pedestal type identification signs and pumps at a gasoline service station, and a reasonable number of trees pruned so as to permit unobstructed vision to automobile drivers.

Chapter 17.24 RESIDENTAL DISTRICT, R-1-10

Sections:

17.24.010 Purpose.

The residential district R-1-10 is established to provide for low density single-family residential neighborhoods of spacious and un-crowed character. The regulations of this chapter provide for single-family dwellings and, with proper concern for potential impact, special residential developments, and certain public and quasi-public activities that will serve the needs of families. These regulations are intended to preserve and enhance residential character and lifestyle.

17.24.020 Permitted uses.

The following uses are permitted in the residential district R-1-10:

A. Farm animals, (see section 17.24.080);
B. Residential facility for person with a disability. (Ord.251-98 (part))

17.24.030 Conditional uses.

The following uses are conditional in the residential district R-1-10:

A. Home occupations.
B. Planned unit developments.
C. Public, quasi-public uses.
D. Residential facility for elderly persons.
E. Accessory Dwelling Units (ADU).
F. Restricted lots, (see Definitions (Section 17.04.030)).
G. Flag Lots. (Ord. 337-11)
H. Child day care or nursery (Ord. 340-12)

17.24.040 Area, width and frontage regulations.

The following area, width and frontage regulations apply in the residential district R-1-10:

A. Minimum residential lot size shall be ten thousand (10,000) square feet;

B. Minimum lot width at the front yard setback line shall be eighty-five (85) feet;

C. Minimum lot frontage shall be forty-five (45) feet.

D. Any lot legally held in separate ownership at the time of adoption of this zoning code, which lot is below the requirements for lot area or lot width for the district in which it is located and on which lot a dwelling would be permitted if the lot met the area requirements of the zoning code may be used for a single family dwelling if such a lot is located in the R-1-10 zoning district. The width of each of the side yards for such a dwelling may be reduced to a width which is not less than the same percentage of the lot width as the required side yard would be of the required lot width; provided that in no case shall the smaller of the two side yards be less than five feet, nor shall the total width of the two side yards be less than thirteen (13) feet.

17.24.045 Every dwelling to be on a lot – exceptions.

Every dwelling unit shall be located and maintained on a separate lot having no less than the minimum area, width, depth and frontage required by this title for the district in which the dwelling unit is located, except that farm or ranch dwellings, group dwellings, condominiums and other multi structure dwellings, complexes under single ownership and management, which are permitted by this title and have approval by the planning commission, may occupy a single lot. (Ord. 328-11)

17.24.050 Yard Regulations.

The following yard regulations apply in the residential district R-1-10:

A. **Front yard.** Minimum front yard setback for all structures shall be thirty (30). The setback is measured to the nearest foundation or column. A maximum two foot cantilever into the setback area such as a bay window is allowed.

B. **Side yard.** Minimum side yard setback shall be ten (10) feet for any one side, and a combined total of twenty-four (24) feet for both sides, for all main structures. Minimum side yard setback for accessory structures shall be six (6) feet, unless fire coded and three (3) feet minimum if fire code is used, or unless otherwise approved by the planning commission. On corner lots, the side yard facing the street shall be not less than twenty (20) feet;

C. **Rear yard.** The minimum rear yard for all main structures shall be thirty (30) feet. The setback is measured to the nearest foundation or column. A maximum two foot cantilever into the setback area such as a bay window or chimney that does not extend to the ground is allowed. Minimum rear yard setback for accessory structures shall be six (6) feet, unless fire coded, three (3) feet minimum if fire code is used, or unless otherwise approved by the planning commission.

D. **Distance for main structures and accessory buildings.** The minimum distance between all main structures and accessory use buildings shall be ten (10) feet, unless approved by the planning commission.

E. **No building on recorded easements.** Main structures and permanent accessory buildings shall not be built on or over any recorded easements (i.e. Public utility easements, etc.)

F. **Lot standards and street frontage.** Except as otherwise provided in this title, every lot presently existing or hereafter created shall have such area, width and depth as is required by this title for the district in which such lot is located and shall have frontage upon a public street or upon a private street or right-of-way approved by the planning commission, before a building permit may be issued; provided, that no lot containing three acres or less shall be created which is more than three times as long as it is wide. (Ord. 328-11)

G. **Yard space for one building only.** No required yard or other open space around an existing building or which is hereafter provided around any building for the purpose of complying with the provisions of this title shall be considered as providing a yard or open space for any other building. Nor shall any yard or other required open space on an adjoining lot be considered as providing a yard or open space on a lot whereon building is established.

H. **Area of structure and accessory building.** No structure or accessory building or group of structures or accessory buildings in any residential district shall cover more than twenty five percent (25%) of the rear yard.

I. **Sales or lease of space.** No space needed to meet the width, yard, area, coverage, parking or other requirements of this title for lot or building may be sold or leased away from such lot or building.

J. **Yards to be unobstructed – exceptions.** Every part of a required front yard, rear yard or side yard shall be open to the sky, unobstructed except for permitted accessory structures, including buildings, in a rear yard; ordinary architectural projections of sky-lights, sills, belt courses, cornices, chimneys, flues; and other ornamental features which project into a yard not more than two and one have (2 ½) feet; open or lattice-enclosed fire escapes; and fireproof outside stairways and balconies opening upon fire towers projecting into a yard no more than five (5) feet. Architectural projections are those projections not intended for occupancy which extend beyond the face of a building or structure. Landscape enhancements, including but not limited to arbors, ponds, decorative walkways and retaining structures, with a gross area of 120 square feet or less and a height of twenty four (24) inches or less (except arbor or trellis openings width not greater than sixty (60) inches, depth not greater than twenty four (24) inches and height no greater than ninety six (96) inches shall be allowed within any front yard, side yard or rear yard setback area. Structures identified as exempt from a building permit, with the exception of fences, retaining walls, and access walkways or driveways, shall not be placed or constructed within any front yard or corner street-side setback area.

17.24.055 Lots and dwellings fronting on private streets – special provisions.

Lots with frontage only on private streets shall require planning commission approval and shall be subject to all applicable requirements of this title.

17.24.060 Height regulations.

A. **Main and accessory buildings.** No main structure shall be erected to a height greater than thirty five (35) feet measured from the lowest finished ground level to the highest roof structure including chimney structures. Accessory buildings shall not be erected to a height greater than one story or

twenty (20) feet, whichever is lower, or be higher or contain greater square foot floor area than the principal building to which it is accessory unless otherwise approved by the planning commission.

B. **Additional height allowed.** Public buildings and quasi-public buildings may be erected to a height greater than thirty-five (35) feet when approved by the planning commission.

C. **Exceptions to height limitations.** Penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, and fire or parapet wall, skylights, tower, steeples, flagpoles, chimneys, smokestacks, water tanks, wireless or television masts, theater lofts, silos or similar structures may be erected above the height limits prescribed, but no space above the height limit shall be allowed for purposes or providing additional floor space nor shall such increased height be in violation of any other ordinance or regulation of the city.

D. **Minimum height of dwellings.** No dwelling shall be erected to a height less than one story above grade.

17.24.070 Density.

The maximum net density allowed shall be 4.3 units per acre.

17.24.80 Farm animal regulations.

A. Farm animals may be kept on properties according to the following requirements:

1. For each acre, a parcel, or adjacent properties, whether owned or leased, shall be eligible to contain or house farm animals rating one hundred (100) points or prorated for any part thereof.

    a. Large animals such as horses, ponies, donkeys, mules, llamas and cows require a minimum area of .4 acres: Forty (40) points each.
    b. Medium animals such as sheep and goats, and other animals of similar size: Twenty (20) points each.
    c. Small animals such as ducks, chickens, geese, rabbits and turkeys: Four (4) points each.
    d. Pigs, provided that pens are located at least two hundred (200) feet from neighboring dwellings: Forty (40) points each.
    e. Miniature or pygmy farm animals will have one-half the points of the normal sized species.

2. The points listed in Section 1 may be decreased for large and small animals subject to approval of a conditional use permit by the planning commission. The minimum points allowed for each large animal is twenty-five (25) points and the minimum allowed for each small animal is two (2) points.

3. Dependent offspring shall not be counted in determining the total number of animals on the parcel(s).

4. Honeybees, pursuant to the requirements of Title 4, Chapter 11 of the Utah Code.

B. For multiple properties to be eligible for combined point calculation under Subsection A, the following criteria must be met:

1. The properties shall be owned or leased by the same person or entity.
2. All properties used for the combined point calculation must be contiguous.
3. If one or more properties are leased:
    a. The lease must be in writing and signed by both parties.
    b. The leased property must be used in some meaningful way by lessee in the keeping of farm animals.

C. All animals, except bees, must be kept in an area enclosed by a fence or structure sufficient to prevent escape.

D. Setbacks - No animal shelter, including pens, coops and beehives, may be located less than six (6) feet from any property line or dwelling.

1. Barns, stables, corrals, or similar structures used to house medium and large animals may not be located less than seventy-five (75) feet from any neighboring dwelling.

2. An apiary, housing colonies of bees, must be at least six (6) inches above the ground and, if located less than fifteen (15) feet from a property line, a solid six (6) foot vertical barrier running along or near the property line and extending at least four (4) feet beyond the apiary in each direction is required.

3. Setbacks for all structures shall meet applicable zoning requirements for each parcel

E. To protect the health, safety and welfare of the animals and the public, animal waste, debris, noise, odor, and drainage shall be kept in accordance with usual and customary health standards associated with that type of animal.

F. Failure to comply with any portion of this section shall invalidate any use specified in this section and shall subject the owner to penalties and/or fines as specified elsewhere in this title.

17.24.090 Reserved.

17.24.100 Fence requirements.

A. Fences, walls, and hedges may not exceed six feet height within any required rear yard or interior side yard. Notwithstanding the foregoing, the planning commission may approve the erection of a fence to a height greater than six feet within any required rear yard or interior side yard upon a showing that the increased height is reasonably necessary to protect the property from an adjacent incompatible land use.

B. Notwithstanding any other provision of this Title, no fence, wall, or hedge may exceed four (4) feet in height within any front yard setback; and, within three (3) feet of any street line or inside of sidewalk (whichever is closer to the primary building on the lot), no fence, wall, or hedge may exceed two (2) feet in height. (Ord. 328-11)

C. For the purpose of this section, single shrub planting shall not constitute a hedge if the closest distance between the foliage of any two plants is and remains at least five (5) feet.

D. When a fence, wall, or hedge is located along a property line separating two lots and there is a difference in the grade of the properties on the two sides of the property line, the fence, wall or hedge may be erected or allowed to the maximum height permitted as measured from the higher grade. (Ord. 328-11)

E. Clear view of intersecting streets.

In all districts which require a front yard , no obstruction to view in excess of two (2) feet in height shall be placed on any corner lot within a triangular area formed by the street property lines and a line connecting them at points forty (40) feet from the intersection of the street lines, except pedestal type identification signs and pumps at a gasoline service station, and a reasonable number of trees pruned so as to permit unobstructed vision of traffic.

Chapter 17.26 BLENDED USE DISTRICT, B-U

Sections:

17.26.010 Purpose.

The purpose of the blended use (B-U) zone is to encourage vibrant, active centers through a variety of uses in a pedestrian, equestrian, and bicycle friendly environment and to promote architectural quality in building designs. Developments in the B-U zone shall focus on connecting to and extending the Legacy trail system and other city trail features. Additionally, developments in this zone shall ensure vibrant, quality projects that adequately buffer the traditional rural uses in the B-U zone and areas adjacent to the zone. The scale and intensity of a blended use development may vary depending on location, types of proposed uses and development theme.

The blended use development standards allow for the development or redevelopment of land in a manner that requires projects to be designed and planned to provide a suitable blend of residential, commercial, office, entertainment, recreation, technology based enterprises, open space, and other types of uses that create a quality design. Examples include an independent film production studio and related back lot operations, a distinctive retail destination with unique design plans, and a campus-type headquarters for a major and respected corporation. These examples are by way of illustration only and are not intended to exclude other projects that will satisfy the purposes of the B-U zone.

17.26.020 Application.

A. The blended use zone regulations apply to:

1. All property within the blended use (B-U) designation of the West Bountiful City zoning map; and
2. Any approved redevelopment/community development district within the B-U zone.

B. Projects in the B-U zone may incorporate blended uses in a vertical or horizontal manner. Vertical projects incorporate different land use types within the same building (e.g., office, retail, and commercial). Horizontal projects incorporate different land uses within adjacent buildings or areas on the same site. Both types of blended use in a project are encouraged.

17.26.030 Uses Within Blended Use (B-U) Zone.

A. The variety of uses allowed in the B-U zone are intended to create a blend of commercial, entertainment, office, independent film production studio and related back lot operations, distinctive retail destination with unique design plans, campus-type headquarters for major corporations, personal services, and residential dwelling land use types that can be developed in a compact design that encourages compatibility of uses. Each B-U zone application may have a different theme, identified in the approval process, that establishes the type of blended uses proposed. For redevelopment and community development districts this is identified in the associated development agreement. In addition, each project submitted for approval in this zone will be designed to be compatible with other adjacent or nearby projects so that the entire B-U zone, once fully developed, appears to have been seamlessly planned as one overall development, and the entire B-U zone follows a theme and pattern of development consistent with the overall purposes of this ordinance.

A key component of this zone is the requirement of a realistic blend of land use types, such as commercial, office, personal services, entertainment, recreational, and residential. A blended use development is required to have at least three (3) different land use types, unless the planning commission and city council for good cause approve fewer uses in the development and the development is otherwise consistent with this chapter. Developments in the B-U zone are expected to

maintain an adequate balance of all uses within the project area, unless otherwise approved by the planning commission and city council. The permitted uses of the B-U zone shall be the uses specified in Section 17.26.030.D, as incorporated in a development that is finally approved under the processes set forth in this chapter.

C. Developments in the B-U zone must be sensitive to the following specific blended use standards:

1. All projects in the B-U zone are required to respect the traditional character of development patterns of West Bountiful City. As such, any project in the northern portion of the B-U zone may incorporate and blend only single family detached residential dwellings, equestrian centers and associated facilities, parks and park amenities, trails and related trail amenities, open spaces, and other facilities that will enhance the rural character of this area within the B-U zone. Any project in the southern portion of the B-U zone may blend permitted uses such as: commercial, entertainment, office, independent film production studio and related back lot operations, distinctive retail destinations with unique design plans, campus-type headquarters for major corporations, and personal services. Projects in this portion of the zone shall be developed in a way that appropriately buffers residential areas located to the north and east of this area. The Davis County A-1 Canal, as it runs through the B-U zone as of the enactment of this chapter, and the same alignment in the event the A-1 Canal is removed or realigned, will serve as the general line of demarcation between the southern and northern portions of this zone. Any planned project located within 300 feet of the A-1 Canal will be required to blend the appropriate residential, commercial, entertainment, office, campus-type uses, personal services, parks and park amenities, trails and related trail amenities, and open space in such a way that tapers densities and sufficiently transitions the respective uses of the southern and northern portions of the zone.

2. Projects in the B-U zone are encouraged to establish amenities that protect and enhance the equestrian center and associated facilities located in the northern portion of this zone.

3. Projects in the B-U zone are encouraged to establish open space, recreational facilities, and trails or provide amenities that enhance existing city parks and trails.

4. Projects in the B-U zone are encouraged to establish amenities that enhance the Lakeside Golf Course as an area attraction.

C. The B-U zone is a unique blend of uses with no one land use type being a constant, dominant or prevailing use. Since the land uses allowed are determined by the project development plan and development agreement, with land uses dependent upon location and the type of project being developed within the B-U zone, this zone shall not be considered a commercial or a manufacturing zone for the purpose of off premise signage location under state law.

D. The following uses shall be permitted for blended use zone projects, subject to approval as required in this chapter:

1. Dining:
    a. Restaurants (sit-down restaurants, but not fast food establishments);
    b. Specialty food or drink businesses with a maximum of two thousand (2,000) square feet of floor area.

2. Personal services:
   Limited to hairdresser, barber, manicurist, tanning salon, and any other service expressly determined by the city council to be needed in the B-U area upon a finding of good cause.

3. Professional or business office:

   Building footprint square footage limited to fifty thousand (50,000) square feet, except as otherwise approved by the planning commission and city council upon a finding of good cause.

4. Research, business park, and campus facility use:

    a. General product research or development businesses and product assembly; provided there is no outdoor storage of materials or product, and the use does not produce odors or create noise audible from the exterior of the building.

    b. Individual buildings limited to fifty thousand (50,000) square foot footprint, except as otherwise approved by the planning commission and city council upon a finding of good cause.

1. Residential of the following types:

   Single family dwelling units. The minimum residential lot size in the B-U zone shall be one lot per one (1) acre; this shall not apply to PUDs, which shall be regulated by provisions of Chapter 17.68 of the Municipal Code. Single family dwelling units in the B-U zone shall comply with the building standards and other provisions of Sections 17.16.040 through 17.16.080 of the Municipal Code.

2. Retail of the following types:

   General retail sales, provided that individual retail use is limited in size to a maximum of seventy-five thousand (75,000) square feet, except as otherwise approved by the planning commission and city council upon a finding of good cause.

7. Open space, parks, and other recreational facilities.

    a. "Green" developments or other eco-friendly developments are encouraged.

    b. Public facilities – public parks, public open spaces, and public recreation facilities are highly encouraged in the B-U zone.

8. Entertainment facilities and related venue developments of the following types:

    a. Production studios – film, music, multimedia, digital media, sound stages, etc.

    b. Event venues – amphitheaters, outdoor stages, auditoriums, etc.

    c. Arenas and similar facilities.

9. Equestrian centers and associated facilities. This includes large animal veterinary clinics, tack shops, riding school facilities, horse arenas, and other similar equestrian use facilities.

D. To ensure compatibility of uses, the following uses shall not be permitted in the B-U zone:

1. Any business with outdoor storage or storage containers (this includes storage parking, storage dismantling, and storage repair activities).
2. Any business with indoor storage units.
3. Any business with drive-through window service, except any such service that is determined to be an integral feature of a non-food service industry that will provide a desirable service to the community within the B-U zone. This determination will be made by the city council upon recommendation by the planning commission.
4. Car wash.
5. Convenience store, gas station, service station, auto lube and oil centers.
6. Manufacturing uses determined by the city council to be akin to industrial uses or otherwise use-intensive so as to be out of character with the overall design and purpose of the B-U zone.
7. Motor vehicle or motor recreational vehicle sales or display (whether wholesale or retail, and whether indoor or outdoor).
8. Motor vehicle repair, service, warehousing, salvage, or storage (whether indoor or outdoor).
9. Private clubs/taverns/cabarets.
10. Recycling centers/recycling collection areas.
11. Rehabilitation/treatment centers, transitional housing, residential facilities for elderly persons, residential facilities for persons with a disability, boarding homes, and any other facility subject to the regulations of Chapter 17.84 of this title.
12. Correctional facilities or facilities with similar uses.
13. Sexually oriented businesses.

14. Single retail unit space over seventy-five thousand (75,000) square feet, except as otherwise approved by the planning commission and city council upon a finding of good cause.
15. Shipping centers or other freight-oriented hubs.
16. Warehousing as a primary use.
17. Any use not specifically listed in this section as a permitted use in the B-U zone.

17.26.040 General Development Standards.

A. The blended use zone is intended to be applied only in the designated mapped B-U area of the city. The development of each blended use project shall be accomplished in a manner that the design of the buildings, parking, land uses and landscaping create a compact development (as described in Section 17.26.040.A.1.b) and quality design of building and spaces that are cohesive with other prior projects approved in the B-U zone after enactment of this ordinance. Attention to the design is required to create a vibrant, interactive and connected development, both internally and with respect to its surroundings. The approved project master plan and development agreement will determine site specific details, setbacks and building placements and use locations, within the limitations of this chapter, as each project will create its own individuality but still blend into an overall development theme for the B-U zone. Each project approved in the B-U Zone will be planned in a way to be cohesive and compatible with other adjacent or nearby projects so that the entire B-U zone, once fully developed, appears to have been seamlessly planned as one overall development that features pedestrian-friendly trails and accessibility with easy access to existing Legacy trail features. In order to guide the development of the project master plan each project approval will be required to comply with the following blended use general development standards.

1. Site Design:

   General standards in the B-U zone, including redevelopment and community development districts:

   a. Setbacks: Buildings with ground level commercial uses should be located next to street property lines in order to create a street edge and give visual preference to pedestrian related access to the structures. Some variation for a portion of the building setback may be considered when outdoor spaces for the ground level use are developed such as outdoor dining or entrance features, but in no case will the front setback be more than thirty (30) feet without planning commission and city council approval upon a finding of good cause. The important consideration is maintaining the character of the existing streetscape massing and having building setbacks that respond appropriately to those characteristics. All side and rear setbacks will be determined based on potential impacts of noise, service areas, objectionable views created by the types of uses and the design and the appropriate mitigation needed along the perimeter of the development to transition from the blended use to the surrounding developments. In

no case will the side setbacks be less than ten (10) feet (twenty (20) feet if the side setback is facing a street on a corner lot) and the rear setbacks less than twenty (20) feet without planning commission and city council approval upon a finding of good cause. For residential developments, the setbacks shall conform to the requirements of Section 17.16.050.

b. Compact Design: Buildings in a blended use project generally should be clustered so that they are easily accessible for pedestrians and for easy access to shared parking areas. Compact designs create walking connections between buildings. Clustering occurs by grouping the buildings so that several buildings can be accessed from one parking area and from common pedestrian accessways. The implementation of trail systems and connection to the Legacy trail system, where possible, is anticipated in order to encourage pedestrian, equestrian, and bicycle use throughout the B-U zone. Specific plans for buffering of neighboring residential areas shall be required as part of the design process.

c. Building Orientation: Buildings shall be designed so that the front of any building is oriented to the street. Development projects with buildings that are greater in depth (front to rear) than in width, shall have a central plaza or walkway between such buildings so the buildings front the plaza or walkway. When space is limited it may be necessary to create a secondary entrance, which faces the street, from the parking area to the building.

d. Parking/Access/Service Areas: Parking lots shall be located to the side of buildings that front on a street or to the rear of the building areas so that they can service a variety of buildings in a clustered design concept rather than creating one large central parking area. Access to the parking areas should be directed to come from secondary streets when possible in order to create a continuity of buildings along the main street frontage. When parking is to the side of a building, it shall be set back from the front of the building a minimum of one-third ($^1/_3$) the depth (front to rear) of the building and the area in front of the parking shall be landscaped. Surface parking lots shall be landscaped with islands or peninsulas which include trees to help unify the parking lot as a visual amenity to the development. The separation of pedestrian access from vehicular traffic is an important design consideration. Service areas for buildings should be away from pedestrian access areas and public streets, and should be located in a way to be as hidden and non-intrusive as reasonably possible. The use of alleys for service access is encouraged.

2. Parking Requirements:

General standards in the B-U zone, including redevelopment and community development districts: The parking requirements for the land uses shall be based on the requirements of

Chapter 17.52 of this title and these shall be considered as minimum parking requirements. Shared parking reductions are encouraged with the exception of shared parking for residential dwelling units. A minimum of two (2) stalls per dwelling unit is required. The residential parking shall be designed into the dwelling unit or in a detached structure on the same lot as the dwelling unit.

2. Building Design:

   a. Except as otherwise provided in Section 17.26.030.D.5, no building or other structure in the B-U zone may be erected to a height greater than fifty (50) feet; provided, that upon a finding of good cause, the planning commission and city council may authorize a non-residential building or structure to be erected to a height of up to one hundred (100) feet.

   b. Any multilevel building in the B-U zone is intended to promote architectural quality in building design that this type of development needs. Visual interest is an important requirement in the building designs. Visual interest is created by, but not limited to, the following features:

      (i) The building design has a visually distinct base, body and cap. These are generally achieved by means of the ground level being the base, the body being the middle portion of the building and the cap being the cornice.

      (ii) Upper story elements (balconies, windows, terraces) that overlook the street, plaza, and other pedestrian walkways.

      (iii) The perceived height and bulk of the building is relieved by variation in massing and articulation of facades to reduce the visual length of long walls. Variation of rooflines may also be used to reduce the apparent size of blended use buildings and provide visual interest.

      (iv) Building heights vary in the development to create visual relief and the building height transitions from taller buildings to lower heights to achieve compatibility with adjacent properties when the adjacent properties have a one- or two-story maximum height limitation.

   c. Quality of the development is related to the choice of exterior materials used in a blended use project. Brick, atlas brick or stone should be the main exterior solid surface building materials. Simulated materials that provide a similar visual appearance may also be considered. Trims and accent materials may be architectural metals, wood or wood appearing materials.

d. Uses which are nonresidential at the ground level should have the primary frontages of the building that either front a street, plaza or pedestrian accessway designed with a minimum of seventy percent (70%) of the frontage in transparent glass to create storefront appearances and a transparency between the building and the pedestrian traffic.

e. All sides of the buildings shall receive equal design consideration to the extent they are visible to the pedestrian access areas and the general street system or the building rises above other buildings and is visible from all sides.

4. Open Space: Usable open space shall be provided within the blended use development. The amount and type of open space for any development will depend on the size, scale, and nature of the development. However, the minimum landscaping/open space requirement for a development will be twenty (20) percent of the total development area. Approved open space may include, but is not limited to, commons, pocket parks, plazas, courtyards, landscape features, water fountains and features, greenbelts, and trail connections. The design shall encourage comfortable and safe pedestrian, equestrian, and bicycle use, including landscaping, seating areas, lighting, and related amenities (including water fountains and restrooms), as appropriate, as well as emphasis given to connections to public access such as connections to trail systems and water features. Unless otherwise specified in a separate written agreement with the city, all open space areas shall be maintained by property owners or homeowner associations. Particular emphasis should be placed on trail access to the Legacy Byway trail system and related amenities as well as providing connection routes that will allow and encourage pedestrian and bicycle access to nearby public transit stations such as the Frontrunner station near the Woods Cross and West Bountiful border.

5. Signage: Proper signage design in a blended use development is important to the overall theme of the development and sign locations need to be part of the design of the project. Flat wall mounted signs and projecting signs designed at a pedestrian scale (between eight (8) and twelve (12) feet above the sidewalk) placed on the storefronts are the typical sign method that will be considered as appropriate if they otherwise meet the requirements of this title. Developments may be allowed one freestanding monument sign not to exceed eight feet (8') in height for each street frontage, provided the monument sign is constructed of the same materials as the adjacent buildings in the development and the sign fits in context with the development. Signage in this zone shall be compliant with the Legacy design overlay specifications.

17.26.050 Project Master Plan Requirements.

A. A project master plan is required for each project within the B-U zone. The project master plan establishes the project design, proposed uses and spatial relationships within the project and with

adjacent properties, both inside and outside of the B-U zone. A proposed and final project master plan for the B-U zone shall consist of the following:

1. A map or maps showing the proposed configuration of the project, including all buildings, parking, landscaping improvements, the general location of necessary public and/or private roads, development areas, open space areas (including both improved open space and natural open space), public and private trails, public and private parks and recreational facilities, public building sites, any major storm water drainage ways, any planned waterways, and the anticipated location of any other major public facilities required to serve the residents and property owners within, as well as the residents outside of, the project area.

2. A description of the proposed uses for each development area shown on the project master plan map and phasing of the development, if any, including a description of the residential densities and commercial, office, entertainment, and technology facility intensities of development that are proposed within each development area or phase.

3. Proposed building elevations showing design, materials and colors proposed for the buildings. For redevelopment/community development district projects that are considered for blended use zoning this will be required only at final approval of the redevelopment/community development project.

4. A written description of any specific elements of the proposed project which are required to explain the project master plan map and the uses, densities, and intensities of development. Such descriptions shall include descriptions of any specific public facilities, open space elements, parks, trails, recreational facilities, roads or other improvements, alternative development options, phasing requirements, and any limitations to development due to environmental site conditions or potential impacts on adjacent uses.
5. A description of the buffering efforts planned for the project to ensure minimal adverse impact on existing residential properties within 1,500 feet of the edge of the project or the boundary of the B-U zoning district, whichever distance is greater.

6. Any other information deemed by the planning department to be useful or helpful in evaluating the proposed project.

B. The proposed project master plan shall be reviewed at the same time as the proposed development agreement. The final project master plan shall be modified to incorporate any changes required in a final approval by the city; any conditions or limitations to the development of the land required in the final approval by the city; and any agreements, approvals or other matters anticipated or required by the city as necessary to develop the subject land. The project master plan shall be deemed approved upon incorporation into a final development agreement that is adopted by the planning commission and city council in accordance with the provisions of this chapter. In the event of any conflict between

the provisions of a specific development agreement and the provisions of this chapter, the more restrictive provisions shall govern unless the development agreement expressly provides otherwise.

17.26.060 Blended Use (B-U) Application and Review Procedure.

A. General Requirements: The planning commission will consider together an application for the use of property in the B-U zone and for project development agreement approval. The planning commission may recommend approval, approval with modifications, or denial of the application and development agreement. The city council will consider and take final action on the recommendation. Other related, project specific applications requiring approval of the city council, including, without limitation, any necessary general plan text or map amendments shall be considered together and approved or denied at the same time as the application for the B-U zone use and the development agreement. All contiguous property under single ownership shall be planned in a unified and comprehensive fashion, and shall be included in an application for use within the B-U zone and project development agreement approval. Notwithstanding any provision of this chapter to the contrary, a development project in the northern portion of the B-U zone (as defined in Section 17.26.030.B.1) involving only a permitted residential use under Section 17.26.030.D.5 of no more than five (5) lots, shall be exempt from the requirements of this chapter, as long as the project complies with the applicable provisions, requirements and processes of this title, including Chapter 17.16; Title 16; and other applicable laws.

B. Initial Application Requirements: The initial application shall include the following information:

1. A proposed project master plan containing the information required by Subsection 17.26.050.A of this chapter;

2. The key provisions proposed to be contained in a proposed development agreement, addressing all of the information required by Subsection 17.26.070.A of this chapter;

3. A statement addressing each of the findings required for the approval and adoption of a B-U zone application and development agreement, accompanied by such information as may be necessary or appropriate to allow the city to assess the project in light of the required findings;

4. A description of the existing ownership of the property, any property transactions necessary to implement the project master plan, and a description of how development responsibilities are intended to be handled in light of such ownership;

5. Any fee required for processing such application under chapter 16.08 of this code; and

6. The planning department may require the submission of additional preliminary site development information, including slope analysis and other conceptual planning information, to the extent reasonably necessary to permit the city to evaluate the proposed development.

C. Pre-application Conference: The applicant is encouraged to have a pre-application conference with a member of the planning department and city engineer to ascertain the appropriate scope of any additional information that may reasonably be expected in connection with any application for B-U zone use and development agreement approval. The applicant is also encouraged to meet with the building official and the fire marshal to be advised of how building and fire code requirements may affect the proposed development standards.

D. Technical Review Committee (TRC):

1. The city hereby establishes a technical review committee (TRC) to review applications for B-U zone use and development agreement approval. The TRC will consist of up to seven (7) members who are professionals in specific fields, which may include architecture, civil engineering, landscape architecture, geotechnical engineering, traffic engineering, lighting design, and other professions as the city deems necessary.

2. The mayor, with the advice and consent of the city council, will appoint members of the TRC following consideration of responses to a request for qualifications. Members may be appointed for up to two (2) terms of (3) years each. The initial term shall be staggered, with two (2) members appointed for one (1) year, two (2) members appointed for two (2) years, and three (3) members appointed for three (3) years. Following the initial term, all terms will be three (3) years each, unless a member resigns or is removed earlier. Members of the TRC may be removed under the same procedures as for removal of members of the planning commission.

E. TRC Process

1. The applicant shall submit the initial application and concept plan details with a site plan outlining general development concepts, road systems, parking facilities, trail and park amenities, landscaping features, and all other related design features proposed to be included in the development, as required by this chapter. Upon submission of this information, the planning department will designate, based on the size, nature, location, and complexity of the proposed project, TRC members to review the submissions for technical feasibility and compliance with the requirements of this chapter. The designated members will review the submitted information and provide comments to the city, developer, and property owners. Development review by designated members of the TRC may be waived only by express formal action taken by the planning commission and city council based on the size, nature, location, and complexity of the project. TRC members shall have the ability to prepare reports or summaries as needed to assist in their review process.

2. Fees associated with TRC review of proposed development plans, including for any needed reports or summaries, will be assessed by the city and included as part of the application process. Payment of TRC fees will be expected prior to proceeding forward for further review. Any unused funds will be refunded to the developer or transferred to be used as payment toward respective application fees, at the request of the developer. All TRC members designated to review a particular project must approve the conceptual development plans before the project may move forward for further review by the planning commission and city council. Following approval by the designated TRC members, the applicant is encouraged to have a follow-up conference with a member of the planning department and city engineer.

F. Visual Presentation: If not provided as part of the proposed project master plan, the applicant shall provide for the review of the planning commission and the city council a visual presentation, preferably using computer graphics, depicting the buildings to be constructed under the proposed project master plan within the context of existing, surrounding development. For projects in a redevelopment plan this presentation occurs at the time of the final development application.

G. Planning Commission Review of Initial Application; Preparation of Proposed Development Agreement:

1. Following TRC review, the initial application shall be referred to the planning commission for review and comment at a public meeting. The city shall mail notice of the first such public meeting to owners of property within 2000 feet of the proposed project in accordance with applicable law. The purpose of such review is not to provide or indicate any approval or denial of such application, but to provide any comments that would assist the planning department in negotiating the actual terms and conditions of a proposed development agreement with the applicant; and to identify any other related, project-specific petitions requiring approval of the city council, such as required plan amendments, which petitions must be filed for concurrent consideration with the application.

2. After such review and comment of the planning commission, the planning department, with the assistance of the city attorney, and with the concurrence of the applicant, shall prepare a proposed development agreement containing all of the information required by Subsection 17.26.070.A of this chapter. After such proposed agreement is completed, the application shall then be scheduled for preliminary review before the planning commission, along with any other related, project-specific petitions requiring approval of the city council. For blended use consideration on an approved redevelopment or community development plan area, Subsection F.1 of this section and this Subsection F.2 are considered satisfied by the approval of the redevelopment/community development plan.

3. If the planning department and the applicant cannot concur on the terms and conditions of a proposed development agreement, the applicant may prepare and submit on its own behalf a proposed development agreement containing all of the information required by Subsection

17.26.070.A of this chapter. Upon the submission of such agreement, and the submission of any other related, project-specific plans requiring approval of the city council, the application shall be scheduled and noticed before the planning commission. The city shall mail notice of the first such public meeting to consider such preliminary review to owners of property within 2000 feet of the proposed project in accordance with applicable law.

4. The initial application under Section 17.26.060, together with the proposed development agreement containing all of the information required by Subsection 17.26.070.A of this chapter and the complete submission of all other related, project-specific petitions requiring approval of the city council, shall constitute a final application for development in the B-U zone.

H. Review of Final Application: The final application for development in the B-U zone shall be processed and reviewed following the normal processes and procedures for the review and approval of a development. The planning commission shall consider a recommendation of approval of the final application at a public meeting. The city shall mail notice of the public meeting to owners of property within 2000 feet of the proposed project in accordance with applicable law. Additionally, the city shall mail notice to owners of property within 2000 feet of the proposed project in accordance with applicable law of the first public meeting at which the city council may consider approval of the final application. If general plan amendments are required, the normal processes and procedures for plan amendments shall also be followed, including all noticing and public hearing requirements. Before a development is approved, the city council, after review and recommendation of the planning commission, shall make findings that:

1. The proposed blended use project to be developed in the B-U zone may be approved consistent with any general plan policies for the establishment of blended use projects or B-U zoning and the provisions of this chapter;

2. The proposed blended use project is described in a conceptual project master plan meeting the requirements of this chapter showing the general configuration of the project, including the general location of development areas and including the types of uses contemplated within each development area, necessary public and/or private roads, recreational and open space amenity areas reasonably anticipated to meet the needs of the residents, any public facilities and other features of the project, which conceptual project master plan is to be incorporated into, and adopted along with, the development agreement;

3. Adequate public and private utility services, streets and other public services can service the proposed development, and if improvements are needed, the development agreement contains a mechanism to assure the provision of such services in connection with any development approved pursuant to the development agreement;

4. The applicant has demonstrated the feasibility of complying with all necessary site development standards required for development in West Bountiful City and will establish mechanisms necessary to assure compliance with all applicable city ordinances;

5. The proposed development (considering such mitigating conditions as may be imposed) will not have a material adverse impact on other property in the vicinity of the development, including all property within the B-U zone and property within 1,500 feet of any border of the B-U zone;

6. The applicant has a reasonable financial plan providing for the construction and maintenance of all reasonably required facilities and other improvements in connection with the development of the project;

7. The proposed development furthers goals and objectives of the general plan;

8. Approving the development in the B-U zone will not adversely affect the public health, safety, and general welfare; and

9. The proposed development satisfies the purposes and requirements of this chapter.

Upon approval of an application for development in the B-U zone, the adoption of the final development agreement and the incorporation of the final project master plan shall be published as a key element of the development's approval. The city council's approval shall provide for the execution of the final development agreement and the recording of such agreement against the land covered by the project approvals.

I. Application for Construction, Expansion and Use in a Redevelopment/Community Development District:

When a blended use zone is applied to the area of a redevelopment/community development district generally the properties have current development or uses on them which the redevelopment/community development plan seeks to upgrade or change. The application of the blended use zone on these properties based on the redevelopment/community development plan creates a new zoning regulation on the properties. The existing properties may continue their use at the time of development but any consideration of exterior improvements (excluding normal maintenance) to the site, new uses on the property, expansion of existing structures, proposals to construct new buildings or use vacant buildings shall not be allowed until such proposals are reviewed and approved as being consistent with the master development plan by which the property is zoned to B-U, unless special provisions for reuse are approved during the project review process and the conditions explained as additions to this section. A proposal for site improvements, new uses on the property, expansion of existing structures, new construction or use of vacant buildings shall be

considered as a final project master plan and development agreement, and shall follow the general development standards and requirements of this chapter in order to receive approval.

17.26.070 Development Agreement Requirements.

A. The development agreement sets the specific standards and requirements that are attached to a specific blended use project. The conditions and limitations of the development agreement shall be based on the approval process and compliance with the general standards of this chapter and specific requirements established during the approval process. A proposed and final project development agreement shall include the following minimum requirements:

1. A legal description for the land covered by the proposed project and the names of all persons holding legal title to any portion of such land;

2. The configuration of the project as shown on a project master plan;

3. Development standards covering all proposed regulations governing the design, form, location, placement or configuration of any improvement to real property, whether privately or publicly owned, including, without limitation, standards for lot sizes, setbacks, height limitations, landscaping and parking requirements, lighting, signage, fencing, wall and buffer standards, and architectural design guidelines and specifications;

4. Development standards that may vary from development standards and regulations generally applicable to development in the city, regardless of zoning classification, but that are consistent with the general development standards of this chapter;

5. Development widths for public and private rights of way that may vary from existing city standards and specifications;

6. A description of the public facilities, services and utilities to be provided and a mechanism to assure that such facilities and services will be provided in connection with any development of the land;

7. A description of recreational or open space facilities and amenities to be provided and a mechanism to assure that such facilities and amenities will be provided in connection with any development of the land, including but not limited to specific plans for connectivity to existing trail features (in particular the Legacy trail system) and related trail amenities;

8. A description of plans established to buffer densities between existing residential areas and increasingly denser uses within the development area.

9. A description of the timing and phasing of development;

10. A description of the various city approvals required before the commencement of construction and other procedures that will be required after approval of the development agreement;

11. A description of such agreements, conditions or restrictions necessary to cause the project to achieve compliance with the general plan or redevelopment/community development plan, or otherwise necessary to make a finding required for approval of the project;

12. A requirement that the project be subject to periodic reviews to ascertain compliance with the requirements of the development agreement;

13. The terms and conditions under which the rights and benefits derived under the development agreement will expire or terminate based on the applicant's failure to meet the conditions of approval or commence development within a reasonable period of time, as well as any other terms and conditions affecting the duration of the agreement;

14. Provisions for enforcement of the terms and conditions of the development agreement;

15. Provisions for making amendments to the development agreement;

16. Such other terms as may be proposed and agreed to between the city and developer; and
17. Signatures by all owners of the property subject to the development agreement, and consented to by any holders of equitable interests in the property.

B. The development agreement shall be reviewed at the same time as the proposed project master plan or in the case of a redevelopment/community development district at the time of the final approval. The development agreement shall be modified to incorporate any changes required in the final approval by the city; any conditions or limitations to the development of the land required in the final approval by the city; and any agreements, approvals or other matters anticipated or required by the city as necessary ultimately to develop the subject land. The development agreement shall be adopted and approved by the city council as part of the overall approval of the development of land in the blended use (B-U) zone classification, following review and recommendation of the planning commission and compliance with all notice and hearing requirements.

C. All applicable development regulations and standards, including all applicable requirements of the Legacy overlay zone, shall apply to the B-U zone.

D. The development standards required and allowed in the B-U zone adopted pursuant to this chapter shall be those development standards specified in an approved development agreement for the subject project and such other development standards and regulations as are contained in the zoning, subdivision and other land use and development laws and regulations of the city that are not specifically waived or varied in the approved development agreement. The development agreement

may provide that the provisions of the development agreement shall control over any inconsistent development standard contained in this title; provided, that no development agreement provision that is less restrictive than the development standards of this chapter may be approved except upon a finding of good cause.

E. The development approval processes and procedures that apply to projects governed by a development agreement, including, without limitation, subdivision, site plan, and other land use approvals, shall be those processes and procedures contained in the city's zoning, subdivision and other land use and development laws and regulations in existence and effective on the date of the application for the applicable land use approval, as applicable to the B-U zone and the unique criteria found in this chapter.

F. Except as set forth in the following sentence, a development agreement and a project master plan for a project covered by a development agreement may be amended on such terms and following such processes as is provided in the final development agreement. Notwithstanding the provisions of the development agreement, any amendment to a development agreement that alters or modifies the duration of the development agreement, modifies the allowed uses, increases the maximum density or intensity of use, alters building height or setback requirements to the extent a finding of good cause would be necessary under this chapter, deletes any major public amenity described therein, or modifies provisions for reservation and dedication of land, including open space dedications, shall be deemed a substantial amendment. Such an amendment may be made only upon the review and recommendation of the planning commission and approval of the city council, after complying with all noticing and public hearing requirements for amendment of a development agreement.

G. A development agreement may vest the right of the developer to develop the property that is the subject of the development agreement in accordance with the uses, densities, intensities, general configuration of development and any other development standards described and incorporated into the approved development agreement. Any such vested right shall be subject to the following reserved legislative powers: No provision of a development agreement shall limit the future exercise of the police power of the city in enacting generally applicable land use laws after the date of the approval of a development agreement and to apply such land use laws to modify the vested rights established by an approved development agreement provided that the policies, facts and circumstances applicable to the new land use laws meet the compelling, countervailing public interest exception to the vested rights doctrine in the state of Utah.

H. Contiguous parcels of land under separate ownership (or proposed to be developed by separate developers) may be included in the B-U zone on the condition that each parcel is covered by the development agreement, the development agreement is signed by all owners and, where applicable, any separate proposed developer. A single development agreement may address the joint or separate obligations of two (2) or more owners or two (2) or more developers of parcels within the property covered by the development agreement. Alternatively, the city may elect to require separate applications and/or separate development agreements under circumstances where property within

the B-U zone is or will be owned and/or developed by two (2) or more owners or developers. The city may elect to process related applications for development agreements separately or together. Notwithstanding the above, the city may impose additional conditions and requirements deemed necessary to ensure the implementation of the project master plan considering existing and future ownership scenarios and the likelihood that more than one developer may be involved.

I. The terms of a development agreement shall run with the land and shall be binding on the city and all successors in the ownership and occupancy of any portion of the project property covered by the development agreement. A development agreement may require that the land that is the subject of a development agreement be encumbered and regulated by private covenants, conditions and restrictions consistent with the requirements of the development agreement. The form and content of the covenants, conditions and restrictions shall be determined by the project owner, but the city shall review the instrument prior to recording and may require the inclusion or revision of provisions necessary to implement the approved development agreement.

J. The development agreement shall be in a recordable form approved by the city attorney. For purposes of final execution, the applicant shall demonstrate to the satisfaction of the city attorney that the agreement will be executed by the owners of all of the property subject to the development agreement, by delivering to the city attorney a copy of a title policy or other documentation acceptable to the city attorney verifying such ownership.

(Ord. 312-09, adopted June 30, 2010)

Chapter 17.28 NEIGHBORHOOD COMMERCIAL DISTRICT, C-N

Sections:

17.28.010 Purpose.

The C-N neighborhood commercial district is intended to provide areas in appropriate locations where convenience buying outlets may be established to serve surrounding residential neighborhoods. The regulations of this district are designed to promote a combination of retail and service facilities which in character and scale are necessary to meet day-to-day needs of area residents in a manner which will minimize any hazard or nuisance to adjacent residential areas. (Prior code § 9-10-1)

17.28.020 Permitted uses.

The following uses are permitted in the C-N neighborhood commercial districts:

A. Appliance and small equipment repair, including shoe repair;

B. Drug store;

C. Dry cleaning pickup station;

D. General merchandise sales (retail and wholesale) less than two thousand (2,000) square feet;

E. Offices, business or professional;

F. Personal services;

G. Public and quasi-public institutions;

H. Convenience store, less than two thousand (2,000) square feet;

I. Learning studios such as karate, dance, gymnastics;

J. Real estate and/or insurance offices;

K. Computers: software and hardware, sales and service;

L. Office machine: sales and service;

M. Ceramic business; and

N. Carpet cleaning. (Prior code § 9-10-2)

17.28.030 Conditional uses.

The following uses are conditional in the C-N neighborhood commercial districts:

A. Reception center, meeting hall;

B. Restaurants, cafeterias and fast food eating establishments;

C. Banking and financial services;

D. Custom woodworking (as approved by fire marshal)

E. Sheet metal;

F. Contractor: general, electrical, mechanical and plumbing, etc.

G. Printing and publishing;

H. Silkscreening;

I. Lawn and yard care;

J. Residential healthcare facility; and

K. Business and uses which are similar to those listed in this section and Section 17.28.020 and other small businesses determined suitable for a neighborhood environment by the planning commission. (Ord. 253-98 (part); prior code § 9-10-3)

17.28.040 Area and frontage regulations.

There shall be no area or frontage requirement for an individual lot in a C-N district, except that each such lot shall provide at least one hundred (100) feet of frontage on any side abutting an arterial or collector street. No frontage requirement shall apply to sides of lots abutting other streets. (Prior code § 9-10-4)

17.28.050 Yard regulations.

The following regulations apply in C-N neighborhood commercial district:

A. Front Yard. The minimum front yard setback for all structures shall be thirty (30) feet.

B. Side Yard. The minimum side yard setback for all structures shall be ten (10) feet unless fire coded (six feet if fire code is used), except when the parcel abuts any residential district a side yard of at least thirty (30) feet shall be provided on that side adjacent to the residential zone. The side yard requirement adjacent to a residential district may be modified if justified and approved by the planning commission. On corner lots the side yard which faces the street shall not be less than twenty (20) feet for all structures.

C. Rear Yard. The minimum rear yard setback for all structures shall be twenty (20) feet, except when the parcel abuts a residential district a rear yard of thirty (30) feet shall be provided. The rear yard requirement adjacent to a residential district may be modified if justified and approved by the planning commission. (Prior code § 9-10-5)

17.28.060 Height regulations.

No structure shall be erected to a height greater than thirty-five (35) feet. (Prior code § 9-10-6)

17.28.070 Off-street parking.

A. Off-street access and parking shall be provided and designed as specified in Chapter 17.52.

B. No parking space shall be provided that would allow a vehicle to back out directly into a public street. (Prior code § 9-10-7)

17.28.080 Development standards.

A. Site Plan. A site plan for all phases of the proposed development shall be presented for review and approval, as provided in the land development code.

B. Landscaping. No less than fifteen (15) percent of the total lot area shall be landscaped. A landscaping plan shall be approved by the planning commission as a part of the site plan review. Required side and rear yard areas may be used for driveways or parking; provided, that trees and shrubs of sufficient size and quantity to assure a visual screen from abutting residential properties are installed. All landscaping shall be adequately irrigated and maintained. The planning commission may require a performance bond or cash deposit, in an amount estimated by the planning commission as equivalent to the cost of the required landscaping, to assure installation of required landscaping within six months of approval date. A building permit shall not be granted until receipt of such bond or deposit.

C. Outdoor Storage and Merchandising. Storage and merchandising shall be accomplished entirely within an enclosed structure or as provided by the zoning matrix following this title. (Ord. 269-00 (part); prior code § 9-10-8)

Chapter 17.30 LEGACY OVERLAY DISTRICT, L-O

Sections:

17.30.010 Purpose

The purposes of the Legacy Overlay District are to:

A. Provide overlay standards for development of areas in proximity to the Legacy Highway Interchange, and the connecting transportation corridors along 500 South and Redwood Road, that will encourage the creation of an architecturally unique and vibrant blended use district reflective of West Bountiful's unique geographic location and will interface with the natural shoreland environment surrounding the Legacy Parkway and the Great Salt Lake;
B. Provide for development standards for more intense regional and community uses as one approaches the Legacy Intersection (500 South and Redwood Road) which decrease in intensity as one moves away from the Intersection. Developments in this district will also incorporate a mixture of compatible blended uses in close proximity to one another to provide an appropriate blend of retail, commercial, personal services, office, residential, entertainment and recreational facilities, technology based enterprises, and dining uses; and to facilitate safe, attractive, and convenient pedestrian circulation and minimize conflicts between pedestrians, equestrian uses, and vehicles;
C. Provide open spaces, connections, and integrated landscaping, furnishings and lighting to encourage and promote the creation of destination centers as well as an integrated, traffic- and pedestrian-friendly development design;
D. Provide design flexibility and efficiency in land use and the siting of buildings, services and infrastructure, including the opportunity to increase building height and/or density and reduce pavement areas where appropriate;
E. Facilitate vehicle traffic in and out of the Blended Use and Agricultural Districts from major roadways while preserving the pedestrian-friendly character of these districts by establishing convenient and logical vehicular circulation paths with properly spaced and signalized intersections; and create attractive streetscapes that facilitate vehicular and pedestrian travel while maintaining thoroughfare separation from the pedestrian zones.
F. Enable the City to identify certain Development Standards that must be applied to projects within the Legacy Overlay District, including those covered by a development agreement, while providing flexibility for projects covered by a development agreement to vary certain other Development Standards that otherwise would be applicable where sufficient justification or consideration is given to alter generally applicable standards and where the overall purposes of the underlying Blended Use and Agricultural Districts are achieved.

17.30.020 Conflicts

Except as provided in Section 17.30.040, the general development standards of the Blended Use District (Section 17.26.040) shall govern to the extent they conflict with the provisions of this Chapter; otherwise, the provisions of this Chapter shall govern in the event of a conflict between this Chapter and other provisions of the Zoning Ordinance (Title 17 of the Municipal Code).

17.30.030 Legacy Overlay District: Permitted and Conditional Uses

Permitted and Conditional Uses are those established for the underlying zoning district under Chapter 17.26 Blended Use District (B-U) or Chapter 17.16 Agricultural District (A-1) of the Municipal Code.

17.30.040 Density

Notwithstanding any provision of Chapter 17.26 (Blended Use District) to the contrary, development density of office, retail, or service uses in the Legacy Overlay District shall be governed by the floor area-to-land ratio

(FAR, which is the net constructed floor area of all floors of a structure as a ratio to the overall land area of the parcel on which it is constructed). Parking structures shall not be included in the FAR calculation. The FAR is limited to a maximum of 0.6 (60%) in the Legacy Overlay District. Density calculations may be averaged over an entire parcel, including any areas otherwise un-buildable, provided that compensating areas of open space, outdoor play or sitting areas, trails, and/or community facilities are provided.

17.30.050 Design Guidelines

A. General Requirements. In addition to general standards provided elsewhere in the City's Zoning Ordinance, and unless approved otherwise by the Planning Commission/City Council in connection with the approval of a development in the Blended Use District or Agricultural District, the following standards shall apply specifically to developments in the Legacy Overlay District. These standards are to be implemented in order to create a cohesive appearance unique to West Bountiful.

B. Purpose. The Legacy Overlay District in conjunction with the Blended Use District is intended to establish an iconic place, where the urbanized environment interfaces with the natural shoreland environment surrounding the Legacy Parkway and the Great Salt Lake. The purpose of these design standards and regulations is to enhance the economic viability and aesthetic value of properties within the Legacy Overlay District and the Blended Use District by encouraging the creation of an architecturally unique and vibrant blended use district reflective of the unique geographic location, and historic and rural character of West Bountiful City.

   More specifically, the design standards and regulations are intended to support the following positive actions:

   1. Pprovide for the development of a Blended Use District north from the Legacy Intersection, consisting of more intense regional and community commercial, office, entertainment, recreational, and technology based uses which decrease in intensity further north from the Intersection. The Blended Use District will also incorporate a mixture of compatible blended uses in close proximity to one another to provide an appropriate blend of retail, commercial, personal services, office, residential, entertainment and recreational facilities, technology based enterprises, and dining uses; and to facilitate safe, attractive, and convenient pedestrian circulation and minimize conflicts between pedestrians and vehicles;
   2. To provide open spaces, connections, and integrated landscaping, furnishings and lighting to encourage and promote the creation of destination centers as well as to encourage and promote an integrated, traffic- and pedestrian-friendly development design;
   3. To provide design flexibility and efficiency in land use and the siting of buildings, services and infrastructure, including the opportunity to increase building height and/or density and reduce pavement areas where appropriate; and
   4. To facilitate vehicle traffic in and out of the Blended Use and Agricultural Districts from major roadways while preserving the pedestrian-friendly character of these districts by establishing convenient and logical vehicular circulation paths with properly spaced and signalized intersections.

C. Scope. Any lot or parcel located within the Legacy Overlay District shall be subject to the standards and regulations of this Chapter. Such standards and regulations are intended to be in addition to the existing standards and regulations of the underlying zoning district and other applicable regulations of the Zoning Ordinance.

(1) Design Theme, Standards and Guidelines - This Chapter establishes three (3) kinds of design criteria: **Design Theme, Design Standards and Design Guidelines**.

a. **Design Theme** establishes the expected overall look of the area, and the relationship of the built environment to the natural shoreland environment through the use of principles. These principles are not prioritized, but all are to be reinforced through the implementation of design standards and guidelines that are to be applied in planning the site layout and buildings of all developments in the Legacy Overlay District.

b. **Design Standards** are required in addition to other standards set forth in the Zoning Ordinance and are indicated by the verb "shall." In the event of conflict between the standards of this Chapter and other applicable provisions of the Zoning Ordinance, the interpretation and provisions of this Chapter, in conjunction with the interpretation and provisions of the Blended Use District, shall govern.

c. **Design Guidelines** indicate additional actions that are to be taken to enhance the development design and achieve greater compatibility of development in the Legacy Overlay District. Guidelines thus use the verb "should" signifying that the guidelines are desirable objectives to be achieved but may not be possible for every given development situation.

D. Rules of Interpretation.

(1) General. All provisions, terms, phrases and expressions contained in this Chapter shall be liberally construed to accomplish the purposes of this Chapter in conjunction with the established purposes of the Blended Use District.

(2) Conjunctions. Unless the context clearly indicates to the contrary, conjunctions shall be interpreted as follows.

a. "And" indicates that all connected items, conditions, provisions or events shall apply.

b. "Or" indicates that one (1) or more of the connected items, conditions, provisions or events shall apply.

(3) Mandatory and Discretionary Terms. The word "shall" is always mandatory. The word "should" means that the matter described ought to be accomplished if reasonable and possible under the circumstances. The word "may" is permissive.

(4) Non-Technical and Technical Words. Words and phrases shall be construed according to the common use and understanding of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

E. Development Project Evaluation

(1) Development Characteristics. Development within the Legacy Overlay District shall exhibit design components and characteristics, such as those set forth below, which set the

development apart from a standard subdivision and/or traditional site plan approval accomplished under this Title:

a. Human-scaled building architecture;

b. Use of shoreland style landscaping;

c. Viewshed protection for the Legacy Parkway and the Legacy Preserve;

d. Appropriate use of open space;

e. Use of public and private amenities.

(2) Evaluation Criteria. Each development proposal for development within the Legacy Overlay District shall be evaluated based on its compatibility with:

a. The West Bountiful City General Plan, 2006-2026 and all subsequent amendments.

b. The West Bountiful City Municipal Code.

c. The purpose and development standards of the Legacy Overlay District as set forth in this Chapter;

d. The purpose and development standards of the Blended Use District and/or Agricultural District (in accordance with the base zoning of the proposed development) as set forth in the Municipal Code.

e. The purpose and design of the Legacy Parkway and Legacy Preserve as set forth in the Legacy Parkway Scenic Byway Master Plan; and

f. Any other City-approved study applicable to the subject property.

(3) Burden of Persuasion. An applicant shall have the burden of showing that the proposed uses, project design, and location of utilities and facilities meet the requirements of this Chapter.

F. Development Design Pattern Book

(1) Development Design Pattern Book Required. In addition to applicable requirements of this Title and other provisions of the Zoning Ordinance (Title 17), all applications for the development of property in the Legacy Overlay District shall include a development design pattern book. Notwithstanding the foregoing, this requirement will not be imposed on any residential construction that is not a part of the development of a proposed subdivision or PUD (excluding any subdivision that qualifies for a small lot subdivision process subject to the provisions of Section 16.16.020(E) of the Municipal Code).

(2) Development Design Pattern Book Approval. The development design pattern book shall be reviewed and approved by the City in conjunction with an application for conceptual site plan and/or conceptual subdivision application.

(3) Development Design Pattern Book Submittal Requirements. The development design pattern book shall provide and address the following:

a. Written descriptions and graphic illustrations explaining how the development complements the physical form of the property and how the theme, standards, and guidelines found in this Chapter are to be integrated into the design of the development;

b. Written descriptions and graphic illustrations explaining the proposed conceptual architectural design, building elevations, and other such related design schemes; and

c. Written descriptions and graphic illustrations that clearly describe proposed open spaces, landscaping ideas, pedestrian pathways, furnishings, lighting and related entry way features and/or amenities.

d. Effect of Development Plan Approvals. Upon acceptance of a conceptual plan and the associated development design pattern book by the City, further development applications such as subdivision plat and site plan approval for development within the Legacy Overlay District shall comply substantially with the conceptual plan approval (subject to regulations of the Blended Use District ordinance (Chapter 17.26)) and the development design pattern book.

G. Design Theme.

(1) The Design Theme describes the general feeling of the Legacy Overlay District, utilizing a series of principles as follows.

a. Principle #1 – Context Sensitive – the setting, topography and landscape should reflect and embrace the unique qualities of the Great Salt Lake shorelands and Legacy Parkway environment, which can be described as:

i. Broad open spaces and skies with expansive vistas;

ii. Gradual undulating lines;

iii. Sense of openness or breeziness;

iv. Low, native, grassy meadow and upland vegetation;

v. Natural materials and textures.

b. Principle #2 – Transitional – urban uses and districts should merge and respond to the shoreland environment, which can be described as:

i. Incremental and progressive;

ii. Reinforcing a “sense of arrival” upon approaching the Legacy Intersection;

iii. Creating a "sense of entry" at edges of the Legacy Overlay District, particularly on the west;

iv. Responding to the needs of existing neighborhoods and uses;

v. Encouraging the formation of unique districts and neighborhoods.

c. Principle #3 – Balance – uses and development should create a lively and spontaneous "West Bountiful" feel, which can be described as:

i. Blended use and multi-dimensional;

ii. Natural and open to the west;

iii. Obviously urban as one approaches the Legacy Intersection;

iv. Responsive to existing uses and neighbors;

v. Soft and open between differing uses.

d. Principle #4 - Simplicity – the overall appearance can be described as:

i. Clean, simple lines;

ii. Bold gestures that recall organic forms on the edges;

iii. Linear and urban as one approaches the Legacy Intersection;

iv. Limited color palette;

v. Low contrast;

vi. Uncluttered;

vii. Serenely animated.

e. Principle #5 - Human-Scaled – the built setting is to reflect the human experience in the Legacy Overlay District through:

i. Structures proportioned to people instead of vehicles;

ii. Comfortably scaled spaces;

iii. Low-profile forms hugging the horizon;

iv. Pedestrian-friendly amenities;

v. Interesting details and textures;

vi. Slow-paced, with places to pause;

vii. Appealing to the senses.

f. Principle #6 - Natural or Natural Appearing Materials – the natural or natural appearing materials of the Legacy Overlay District are:

i. Stacked stone, cultured stacked stone or stone clad;

ii. Natural or stained wood, wood siding, and cement fiberboard with suitable textures and colors;

iii. Decorative concrete or block, with suitable textures and colors;

iv. Stucco accenting, with suitable textures and colors;

v. Colored concrete with suitable textures and colors, and crushed gravel surfaces;

vi. Subtle, non-reflective colors and stains.

g. Principle #7 - Natural Vegetation - The natural vegetation and patterns of the Legacy Overlay District are:

i. Informal placement of plantings;

ii. A wide variety of species, mixed together, and no invasive plantings;

iii. Subtle floral displays and colors;

iv. Grassland or meadow appearance;

v. Multiple-season interest;

vi. Predominance of perennial grasses and forbs;

vii. Large, rural shade trees;

viii. Ornamental shrubs, trees and landscape areas focused on native species;

ix. Drought-tolerant, water-wise and low-resource consumption plantings.

h. Principle #8 - Accents – The natural and man-made accents supported in the Legacy Overlay District are:

i. Landscape boulders, rustic farm materials and similar rural features typical of the surroundings and historical setting;

ii. Plaza and meeting areas that are comfortable and attractive;

iii. Grassy swales and berms;

iv. Open fencing styles;

v. Natural and soft surface trails;

vi. Terraced walls with limited heights;

vii. Natural-appearing water features;

viii. Furnishings, lighting and artistic embellishments that reinforce the natural shoreland setting and traditions.

H. Mandatory Design Standards.

(1) Commercial, Industrial, or Institutional Building Architecture – Buildings and structures are to enhance the visual environment of the Legacy Overlay District by blending into the overall appearance of the shoreland environment.

a. The architectural building design shall consider the visual orientation to the Legacy Parkway, regional and local streets, access roads and pedestrian pathways within the Legacy Overlay District to create an attractive appearance and views.

b. The apparent mass of buildings or structures shall be minimized through articulation and use of materials. A variety of vertical and horizontal planes, roof pitches, roof lines, windows, reveals, and alcoves shall be used to create facade variation, shadows, corners, and architectural interest.

c. Where multiple story or multiple-story appearing buildings are constructed, the building design shall incorporate single-story heights for entryways, office space, and other such usable spaces to create a tier effect to the building. Multiple story buildings shall be set behind the single-story areas as viewed from the Legacy Parkway.

d. Buildings and structures shall generally appear to be proportional or in scale with other buildings within the immediate vicinity, specifically with regards to bulk, height, and appearance.

e. All building facades should face adjacent streets with primary entrances and treatments. Setbacks on other streets should be sufficiently consistent and treated in a holistic manner in order to encourage the formation of distinct neighborhoods and districts.

f. When facades face the Legacy Parkway, a regional street (such as 400 North, 1450 West, or Redwood Road), or any pedestrian pathway within the Legacy Overlay District or the Legacy Preserve, the architectural design shall incorporate windows, doorways, entryways, canopies, pillars, and other such features to accent the sense of a "front entrance" to a building or structure. For multiple story or multiple-story appearing buildings or structures, additional elements such as windows, balconies, overhangs, and canopies shall also be incorporated in upper levels to frame and provide a human scale appearance to such buildings.

g. Natural or natural-appearing materials, such as stone, cultured stone, and wood, shall be the bold gestures used in the architectural design of all buildings. Decorative concrete or block, tile, cement fiberboard, and other similar appearing materials may be used as the other main materials in the building design. Substantial or prominent use of stucco or unnatural appearing materials such as metal, vinyl and plastics is prohibited.

h. Colors and finishes shall complement the shoreland environment. Stains, flat paints, and matte finishes are required. Reflective, glossy or shiny paints and finishes are prohibited.

(2) Office and Residential Building Architecture – Office and residential styles and designs should enhance the Legacy Overlay District by blending into the overall appearance of the shoreland environment. The resulting forms and styles should reflect a unique and different design and layout than is typically found in other office and residential projects in the region.

a. The building layout and architectural design shall consider the visual orientation to the Legacy Parkway, regional and local streets, access roads, pedestrian pathways and open spaces within the area, or where otherwise deemed applicable to create an attractive appearance when viewed from these areas.

b. The apparent mass of all office and residential use buildings or structures shall be minimized through articulation and use of materials. A variety of vertical and horizontal planes, roof pitches, roof lines, windows, reveals, and alcoves shall be used to create facade variation, shadows, corners, and architectural interest.

c. When facades face the Legacy Parkway, a regional or local street, an access road or any pedestrian pathway within the Legacy Overlay District, or where otherwise deemed applicable, the architectural design shall incorporate porticos, entryways, and other such features to indicate a street front entrance. Additional elements such as balconies and other such overhangs shall also be incorporated in upper levels of multi-story buildings to frame and provide a human scale to such buildings.

d. Natural or natural-appearing materials, such as stone, cultured stone, and wood, shall be the bold gestures used in the architectural design of all residential use buildings. Wood siding, cement fiberboard siding, and other similar appearing materials may be used as the other main materials in the design of all residential use sections of such buildings. Substantial or prominent use of stucco or unnatural appearing materials such as metal, vinyl and plastics is prohibited.

e. Colors and finishes shall complement the Legacy Parkway Corridor environment. Stains, flat paints, and matte finishes are required. Reflective, glossy or shiny paints and finishes are prohibited.

(3) Grading and Drainage – The relatively flat, slow-draining environment of the area often produces wetland areas and presents a challenge for proper drainage if the land is to be developed. Every effort is to be made to work within the natural drainage patterns of the land and minimize grading that would disrupt the natural system and appearance of the area.

a. The amount of grading of the land shall be minimized to avoid excess erosion, visual scarring, and other similar impacts.

i. Structures and exterior spaces shall be blended into the natural contours of the site.

ii. Cut-and-fill on sites shall be balanced to the greatest degree possible.

iii. Manmade contouring shall mimic natural contouring and shall not begin or end with severe or abrupt edges.

b. The use of retaining walls shall be minimized. If necessary, incorporate or blend walls into the design of the building or parking areas and return to the natural grades in the wetland and landscaping areas.

c. Grading and drainage plans shall implement erosion control measures to ensure that construction activities do not compromise the overall natural drainage patterns and system of the area.

(4) Landscape and Open Space Areas – Landscape and Open Space Areas are to be used to enhance the Legacy Overlay District and soften the transitions between the built and natural areas. Landscape and Open Space Areas include vegetated areas as well as "non-vegetative" elements, such as sidewalks, trails, plazas, and other pedestrian-oriented hardscape areas.

a. Where development sites are adjacent to the Legacy Parkway, at least 50% of the required landscaped/open space area shall consist of native, informal or natural appearing plantings.

b. All non-built, non-parking lot surface areas shall be landscaped. Dedicated walkways, plazas, and other pedestrian-oriented hardscape areas may be included as landscaping, provided that they do not exceed twenty (20) percent of the required minimum landscaping requirement. As used herein, hardscape means sidewalks, concrete or asphalt trails, plazas, and other non-vegetative construction located in areas designated as landscaping.

c. The landscape plan of each site shall be unified both internally and externally, and relate to the larger context of the surrounding community. All landscape plans shall

consider the context of the Legacy Parkway Corridor, the Great Salt Lake shorelands and the surrounding environment and its unique contribution to the character of the community.

d. The landscape plan shall include a pedestrian circulation element that shows interconnectivity with surrounding sidewalks, trails, and access to open space areas. Each development is to provide appropriate pedestrian connections to usable open space and trail amenities to create various connections to the Legacy Parkway Trail System.

e. Developed area landscapes adjacent to the Legacy Parkway shall utilize a mixture of ornamental and native or local climate plantings. Predominant plantings shall include ornamental grasses, shrubs, and wildflowers that complement the Legacy Parkway environment, with no invasive plantings. Large areas of annual plants and/or bright colors shall be avoided.

f. Landscaped areas adjacent to the Legacy Parkway shall primarily consist of or be enhanced with native or local climate shrubs, perennials, and ornamental grasses. Plants with the potential to become invasive weeds in such areas are prohibited.

g. Non-linear transition areas between the developed areas and the natural areas adjacent to the Legacy Parkway shall be created and intermingled with various styles and plant species to soften the appearance of any transition line. An appropriate barrier element, such as steel edge, shall be used to prevent undesirable encroachment or overgrowth between natural and formal plantings.

h. The landscape plan shall be coordinated with the placement of utility elements to mitigate their impact and reduce the potential for conflicts. Proper landscape design shall be utilized to mitigate the visual impact of all site utility elements such as overhead power lines, transformers, meter boxes, and fire protection devices.

i. Landscaped areas shall be prepared with soils and slopes suitable with their natural surroundings to encourage healthy plant growth and proper drainage. The landscape plan shall address the measures to be taken to properly care for and maintain the landscap areas.

j. Water elements, walls, landscape boulders, and other landscaping features shall generally be used in a natural looking manner to complement the appearance of the shoreland environment. Within plazas and other “urban” portions of the site, more expressive and contemporary expressions should be allowed and encouraged.

(5) Off-Street Parking – Parking is a necessity for the varied uses and amenities in the Legacy Overlay District. In order to support the formation of a unique and desirable “place,” parking should be designed in such a manner as to enhance the visual appeal and experience of working, playing or living in a special area.

a. Parking areas shall be segmented or spatially separated and may be connected together by access lanes, green space, stream corridors, or pedestrian pathways. Large, single-standing, or expansive parking or pavement areas are prohibited.

b. Parking areas should be buffered from adjacent residential and mixed use properties and screened from streets so automobiles are not visible below the average headlight height. Screening methods shall include a blend of the following: undulating landscaped berms, low walls and fences, vegetated screens and plantings.

c. Parking lots and service areas should be laid out and designed in a fashion similar to streets, in order to create positive and attractive streetscapes, minimize pedestrian/vehicle conflict and avoid the sense of non-descript and utilitarian service areas.

d. Access drives, internal circulation drives, parking areas, and pedestrian walkways shall be designed to provide safety and convenience for both motorists and pedestrians and to ensure access for the physically disabled. Areas where pedestrian walkways cross driveways shall be constructed of colored and/or raised concrete, concrete unit pavers, brick or of other material and design so as to differentiate the area as a pedestrian/vehicle interface.

e. Parking areas shall incorporate a limited palette of colors and textures to define landscaped islands, pedestrian pathways, loading/unloading areas, and other such amenities to soften and improve the visual appeal of impervious surfaces.

f. Ornamental entryway plantings shall be placed on both sides of every drive accessing a public street to create a unified image. The ornamental entryway for this area may consist of artistic sculptures, landscaping features, monument signs, or other elements designated by the City.

g. Direct access to individual parking lots or pavement areas onto major arterial accesses shall be minimized. Parking lot design and placement shall consider future development on adjacent sites and the need for interconnections.

h. Traffic circulation patterns should direct commercial, industrial, and institutional traffic onto arterial and collector streets and not local residential streets.

i. Multiple-use or sharing of parking and parking areas is encouraged, as long as any needed parking requirement modifications are approved, as allowed by the Zoning Ordinance (Title 17).

(6) Fences and Walls – The use of fences and walls is to be minimized in the Legacy Overlay District.

a. Berms or landscape plantings shall be the primary means for screening or for establishing needed spatial separation.

b. Where security and access controls are needed, an open style fence or semi-private designs shall be utilized. Under limited or intermittent circumstances, a solid fence or wall up to four (4) feet high may be located atop a berm for security or screening purposes.

c. Walls and fences, if constructed, shall use materials and styles to complement the architectural style of the buildings or the Legacy Parkway Corridor environment. Retaining walls shall be used only for significant retaining needs and shall be minimal in height.

d. Open access to the pedestrian pathway or trail systems shall be provided and shall not be impeded by the use of fencing or walls.

e. The use of sound walls is strictly prohibited and shall not be used to separate development within the zone from the Legacy Parkway or the Legacy Preserve.

(7) Outdoor Lighting – Maintaining dark skies is an important consideration for enhancing the character and natural intrinsic quality of the area. Lighting is to be minimized within and around the Legacy Parkway, and may transition up in intensity as one proceeds east into other areas of the City.

a. Lighting shall generally be used only where it is needed for safety and visibility. Lighting levels shall be scaled back to the minimal levels needed to achieve the lighting's purpose.

b. Fixtures or elements producing light shall use the correct bulb type to achieve the lowest wattage necessary. Lighting elements shall be hidden or utilize full-cut-off shields to eliminate shining or reflecting up into the night sky and to minimize glare and light trespass beyond the area where lighting is needed or onto adjacent properties.

c. Self-regulating on and off controls shall be used where lighting is needed periodically, but not continuously, and such controls shall be set to their proper operation times.

d. Up-lighting shall be used sparingly for accenting architecture, landscaping, and signage. Where up-lighting is used, a narrow angle focused fixture with low wattage lamp shall be used.

e. Lighting shall be arranged or directed so as to reflect the light away from adjacent properties and to prevent glare for street traffic. The intensity of light at adjoining residential property shall not exceed 0.1 foot candles and/or adjacent to other zones shall not exceed 0.5 foot candles.

f. A lighting plan shall be submitted for review and shall include:

i. The location and height of all light poles, which shall not exceed 20 feet in height; and

ii. The predicted illumination levels, based on maintained illumination levels just after lamp replacement and luminary cleaning, within, at, and beyond property lines.

g. Designers of lighting plans shall consider shadow effects of trees, signs, buildings, screen walls or other fixed objects.

(8) Signage – Signage is to enhance the scenic qualities of the underlying Blended Use and Agricultural Districts and shall complement the signage style used for the Legacy Parkway.

a. Signs shall be limited to locations along main access roads to the project or development.

b. Business signage shall be simple and scaled to allow for sufficient identification of the operation or facility. The style, colors, and materials shall complement the architecture and design of buildings associated with the sign and shall conform to the styles, colors, and materials shown in the Legacy Parkway Scenic Byway Master Plan (Chapter 5-Parkway Style, page 13-17).

c. Monument and/or low profile signs shall not exceed eight (8) feet in height.

d. Sign copy shall consist of individual lettering and logos. Sign copy shall not be internally illuminated or animated. Electronic or changeable copy signs are prohibited.

e. Public, highway, or local street signage shall be similar to the design and styles depicted in the Legacy Parkway Scenic Byway Master Plan (Chapter 5-Parkway Style, page 13). Design and styles shown shall be used as a template for the design of all public, highway, or local street signs within the Legacy Overlay District.

f. Informational or business location markers may be allowed as part of the public signage program for streets and highways. Such signs shall be clustered together on a single sign element and shall conform to the design and styles depicted in the Legacy Parkway Scenic Byway Master Plan (Chapter 5-Parkway Style, page 13).

g. The following signs and devices are prohibited (along with all signs prohibited under section 17.48.070 of the Municipal Code) within the Legacy Overlay District:

i. Animated signs, roof signs, inflatable signs, graffiti, billboards, off-premise signs, and pole signs;

ii. Spotlights, flags, streamers, pennants, banners and other decorative devices for commercial advertising purposes; and

iii. Balloons, including cold air, helium, and other balloons.

h. Interpretive signs shall be designed to tell important stories or messages related to the history of the City or to the shoreland experience. These signs shall utilize a design and materials scheme that is consistent and compatible with the theme of the Legacy Overlay District.

(i) Design Guidelines.

(1) Viewshed Protection – Buildings and similar structures should be designed and placed where their visual impact is minimized to the greatest extent possible, as viewed from the Legacy Parkway Corridor.

a. Buildings should be set back a minimum of 200 feet from the Legacy Parkway Right-of-Way or to the maximum extent possible if less than 200 feet of space is available in the development parcel.

b. All main buildings and associated site landscaping and open space areas within 250 feet of the Legacy Parkway should be visually oriented towards the parkway.

c. View corridors should be created to allow visual connections easterly towards the Wasatch Mountains and westerly towards the shorelands of the Great Salt Lake. Buildings should not be massed in a manner that creates a complete visual fortress, specifically as viewed from the Legacy Parkway or any other major arterial road within the Legacy Parkway Corridor area.

d. All service areas and back lot uses, such as loading docks, dumpsters, and storage areas, should be located away from main building entrances and should be properly screened or visually buffered from view from the Legacy Parkway, regional and local streets, access roads or any pedestrian pathway within the Legacy Overlay District or the Legacy Parkway Corridor.

e. Areas for storage, equipment parking, or other such activities, should be screened and segmented into smaller spatial areas and may be connected together by access lanes, green space, and other buildings.

(2) Open Space and Critical Lands – Open spaces are to be provided to protect and buffer critical natural areas associated with the Legacy Parkway and Great Salt Lake shorelands, and to enhance or create desirable view corridors eastwardly towards the Wasatch Mountains and westerly towards the Legacy Preserve and the shorelands of the Great Salt Lake. Development proposals shall:

a. Identify critical lands, such as wetland areas, stream corridors, canals, and other such sensitive lands. The design and development layout should protect and/or incorporate these features as buffers, open spaces, trail and passive recreation amenities, drainage corridors, and transition areas.

b. Create or locate open space areas adjacent to or oriented towards the Legacy Parkway, the Legacy Preserve, or towards natural areas such as adjacent wetlands.

c. Incorporate open space areas into the development pattern that creates visual and/or physical connections to the Legacy Parkway and the Legacy Preserve.

d. Develop trailheads and trail connections as part of the open space development pattern that provides access to the public trails systems in the area.

e. Use critical land areas to manage drainage and storm water retention needs of development.

(3) Public Right-of-Way, Roadway and Parking Lot Surfacing Design – Properly designed roadway and parking lot placement can create opportunities for decentralizing storm water management for the Legacy Overlay District, in conjunction with the Blended Use District, and allow effective infiltration water runoff in a more natural manner. Basic strategies include low-impact roadway layouts, narrower road surface widths, shared accesses and driveways, and open-section roadways. Additionally, streetscape elements are important contributors to creating a sense of place that can add to the experience of working, living, and playing within the Legacy Overlay District.

a. 400 North, 1450 West, and Redwood Road are key roadways, providing primary access to the Legacy Overlay and Blended Use Districts from other parts of the city and other communities to the east and south. These roads should be configured and designed in a way that enhances the sense of arriving in a special district. At the same time, each road must address the functional requirements for conveying traffic.

b. Local roadways and parking lot areas should be placed to avoid crossing slopes where significant cut and fill will be required. Roadways and parking lots should run parallel to the natural contours of the site and perpendicular to any significant slope areas. Design of the roadway network and parking lot areas may involve some give and take in achieving layouts compatible with the existing topography.

c. Shared driveway use should be incorporated into the site and building layout, including consideration of development on adjacent sites. Residential driveways shall be not less than twelve (12) nor more than thirty-two (32) feet wide. One-way driveways used for commercial, industrial or institutional purposes shall be not less than fifteen (15) nor more than twenty (20) feet wide. Two-way driveways used for commercial, industrial, or institutional purposes shall be not less than thirty (30) nor more than forty (40) feet wide. All driveway surfaces should be sloped or crowned in a manner to evenly drain (not erode) on to adjacent vegetative areas (not onto public streets) where the runoff will infiltrate or travel via sheet flow.

d. Public street design and development within the Legacy Overlay District, in conjunction with the Blended Use District, should reflect the proper design theme motif and be unified across the corridor. The streetscape design should include the use of, but not be limited to, the following types of elements:

i. Interpretive signs and kiosks;

ii. Street trees with decorative planting beds or decorative grating;

iii. Decorative light fixtures and street signs;

iv. Benches or places to rest;

v. Bike lanes and bike racks;

vi. Decorative waste cans and drinking fountains;

vii. Trailhead and spur connections to the area's trail systems.

(4) Architecture – buildings and structures should enhance the Legacy Overlay District (in conjunction with the Blended Use District) experience and image, as is often done in National Parks and resort areas.

a. Building styles and themes should be harmonious with natural landscape and form and support the Parkway's overall appearance.

i. Architectural lines should emphasize the horizontal, and the sense of being on a shoreland.

ii. Developments should use patios and outdoor spaces to transition between the built and natural environment.

b. Building materials should harmonize with the shoreland motif.

i. Use natural materials, such as wood, stone, and stucco. Avoid highly manufactured materials, such as metal, concrete, glass, and vinyl.

ii. Use muted colors and finishes. Avoid bright, reflective or shiny surfaces. Avoid high contrast color combinations.

c. Buildings should have human proportions and be in scale with other buildings in the vicinity.

i. Build smaller, more human-scaled buildings instead of large big-box buildings.

ii. Break up large buildings into smaller forms or multiple facades to reduce their apparent scale.

iii. Use building projections, corners, varied rooflines, balconies, overhangs, patio areas, trellises, and landscaping to break up long, continuous building walls.

iv. Use architectural details, windows, doors, reveals, cornices, and alcoves to add interest, shadows and human scale.

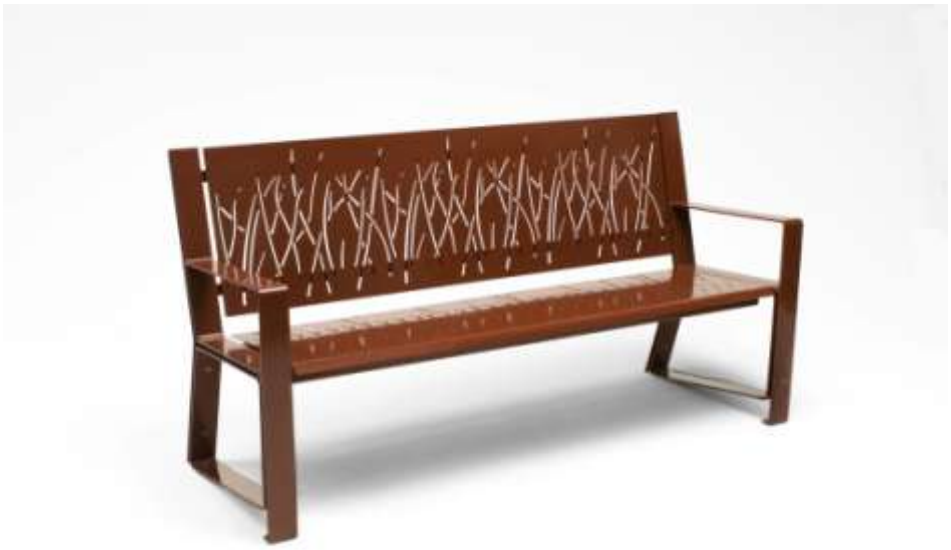
d. Site buildings to encourage pedestrian and bicycle use and safety.

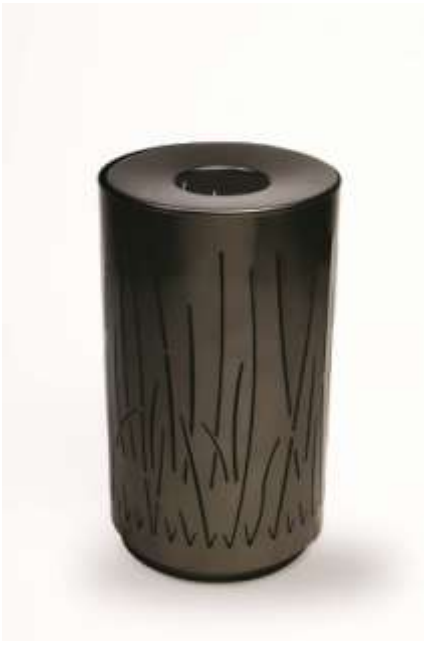
e. Orient buildings to allow an attractive appearance from the Parkway.

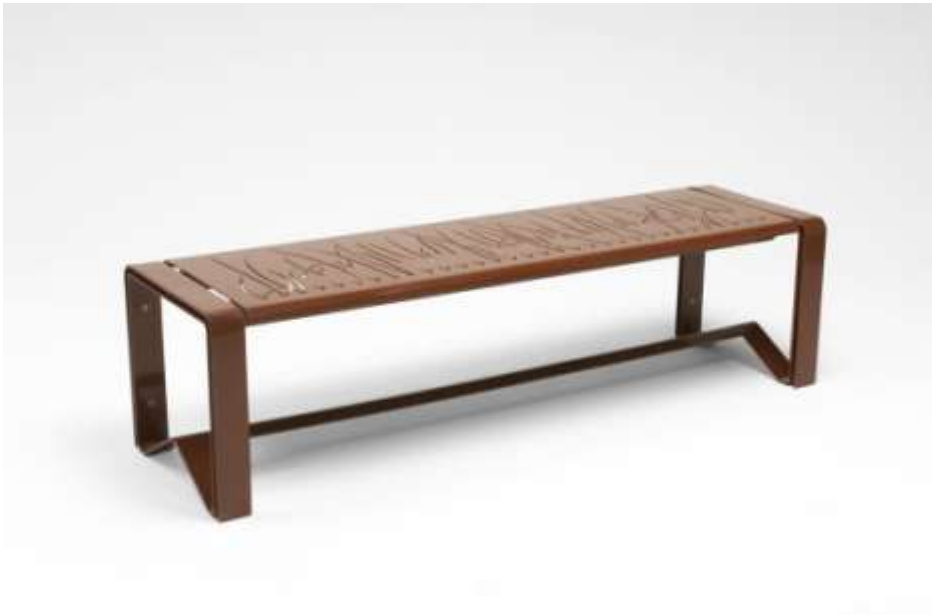
f. Incorporate signage into building designs to let the architecture predominate.

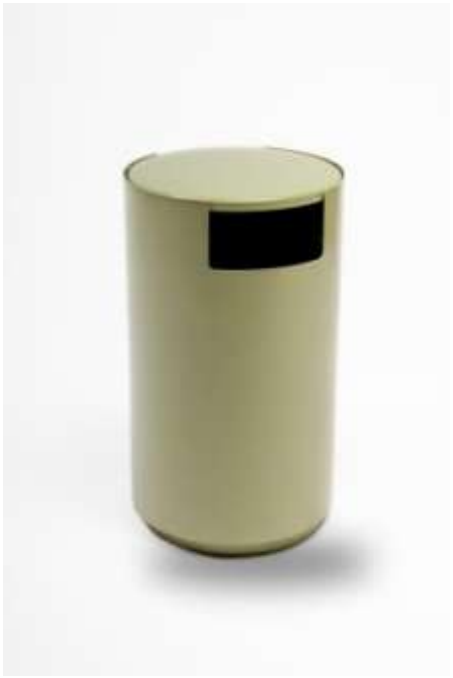
(5) Legacy Parkway Streetscape Design for Major Roads and Public Spaces - ensure consistent light fixtures, benches, trash cans, bike racks, drinking fountains, tree grates, street signs, kiosks and interpretive signs. Streetscape examples are illustrated below.

Street Furnishings

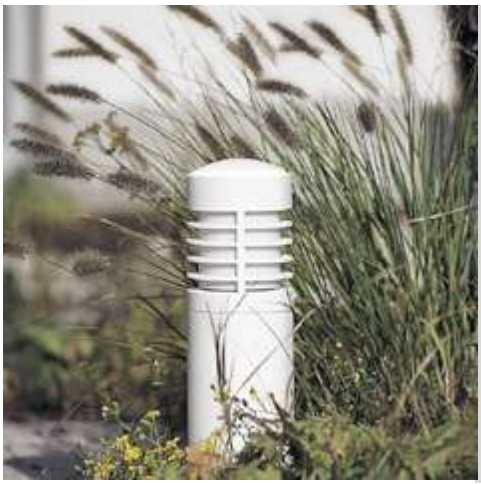


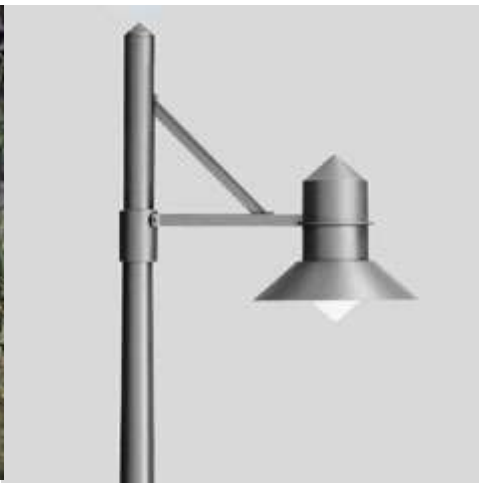


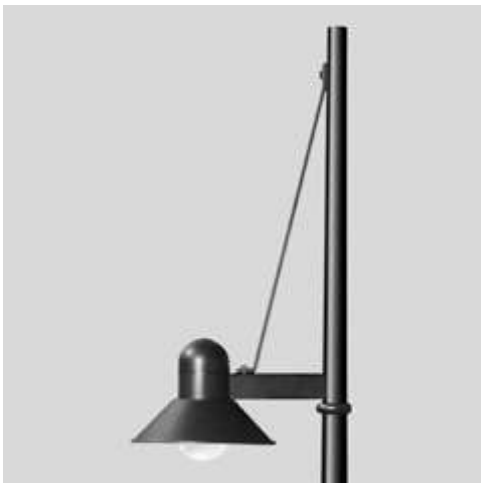


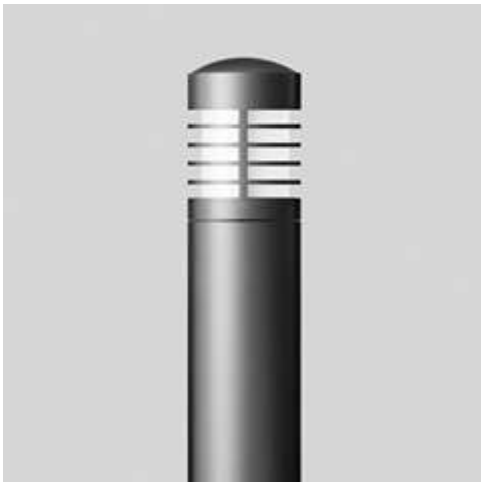


Lighting—Option 1

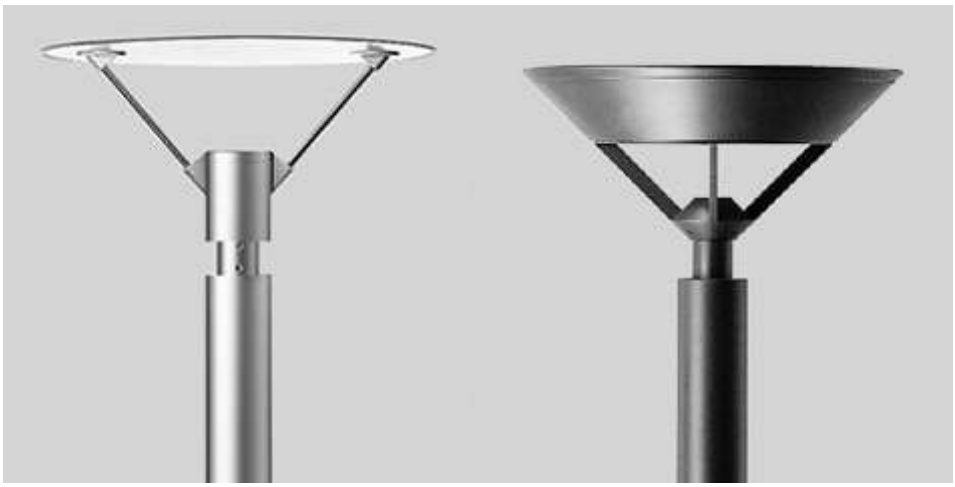


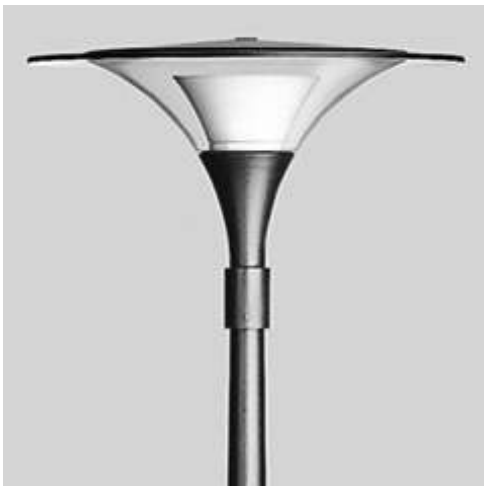


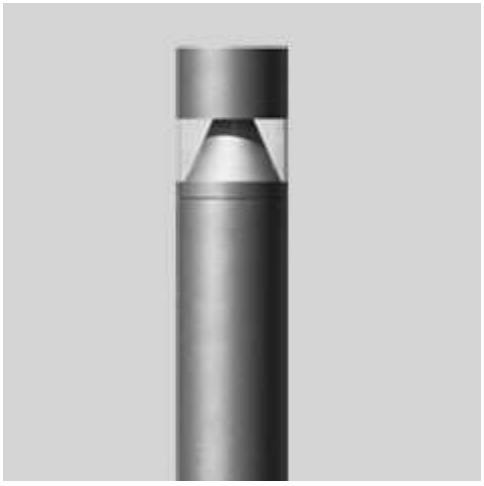




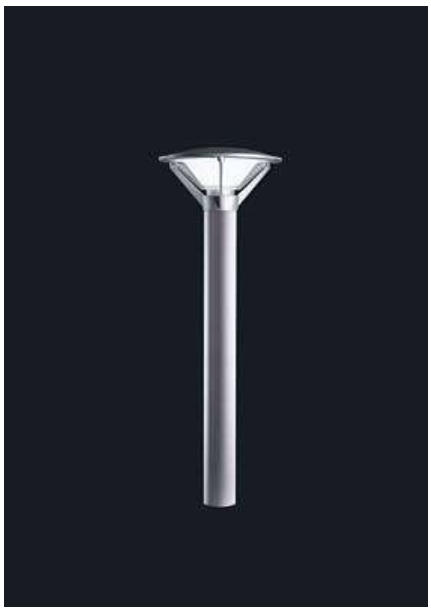
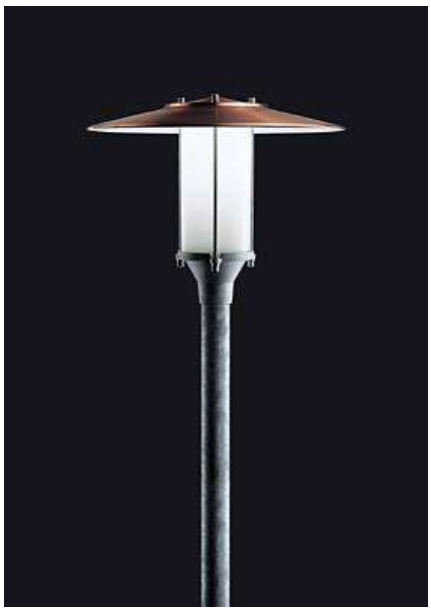
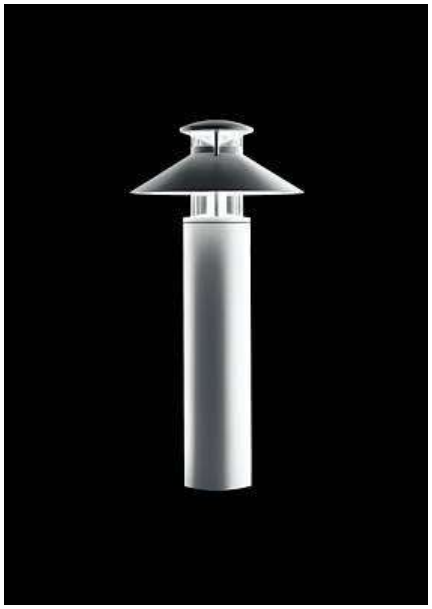
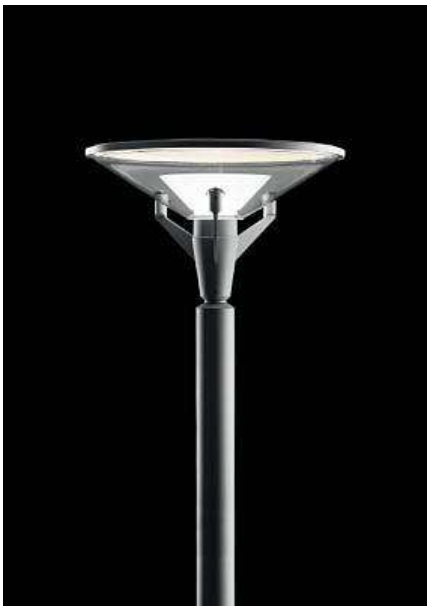
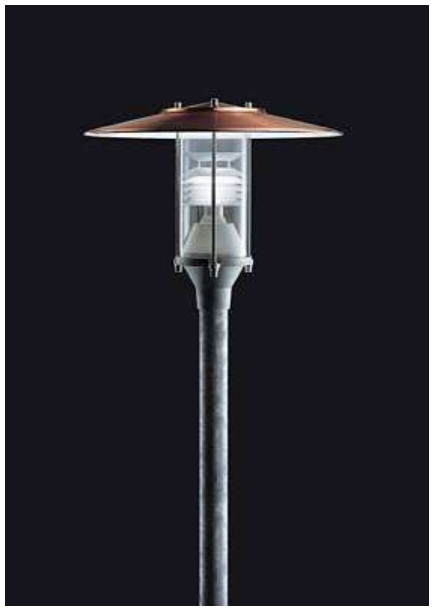
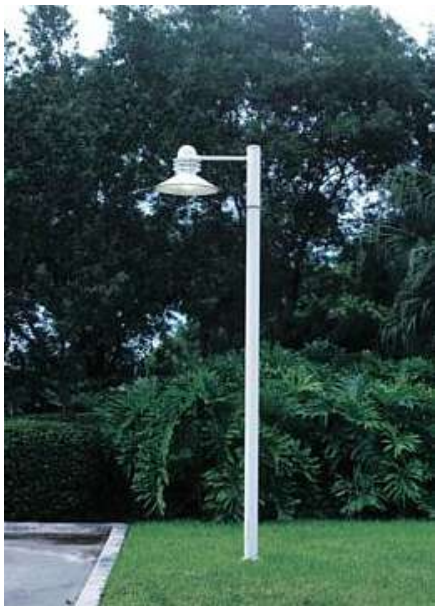
Lighting—Option 2







Lighting—Option 3

(6) Design with the Natural Topography and Drainages to Minimize Disruption to the Natural Systems and Appearances.

a. Use natural drainage ways and patterns. Maintain the balance in the water supply reaching wetlands.

i. Shed runoff water naturally.

ii. Preserve natural hydrology to enhance the wetlands protected by the Legacy Nature Preserve.

b. Minimize grading to avoid erosion, visual scarring, and disturbing existing vegetation.

i. Blend structures, roads and outdoor spaces into the natural site contours.
ii. Balance cut-and-fill on site.

iii. Mimic natural contours and avoid abrupt edges.

c. Minimize retaining walls and incorporate them into building footprints where possible.

(7) Landscaping – Landscape areas adjacent to the Legacy Parkway in a manner that enhances the natural environment and softens transitions between built and natural areas.

a. Maintain existing trees and plants to enhance and protect natural systems.

b. Match new landscaping to its context and reflect the shoreland motif.

i. Developed, urban areas should use a mixture of native and ornamental trees, shrubs, perennials and annual grasses and wildflowers that complement the shoreland motif.

ii. Trees are encouraged for shading, screening and privacy. Avoid large areas of annuals and bright colors. The judicious use of evergreen trees is encouraged in order to strengthen the shoreland landscape motif

iii. Natural areas should use native and naturalized shrubs, perennials and annuals. Trees and evergreens should be used sparingly. Avoid groupings of colorful or ornamental plants.

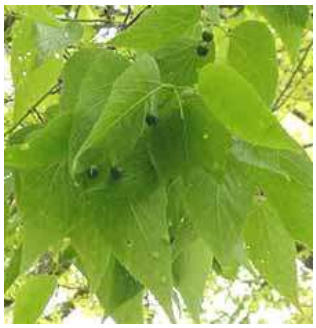
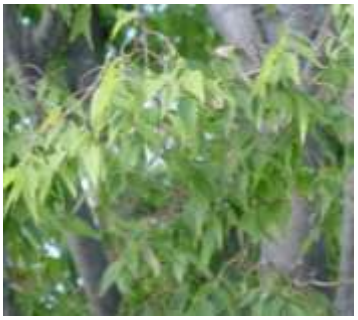
iv. Transition areas between these two types of landscaping should mix the styles and plant species to soften the line transition. Use mow strips or fence to subtly demarcate the boundary to prevent encroachment.

v. Select plants recommended in the Legacy Parkway Area Tree Palette below. Remove and avoid plants that may become invasive weeds.

Legacy Parkway Area Tree Palette

Scientific Name	Common name	Mature Size	Characteristics/ comments	Min. Size at Planting
Celtis laevigata	Sugarberry	H 60' W 60'	Inconspicuous flowers; small fruit.	2” Cal.
Celtis occidentalis	Common Hackberry	H 40' W 30'	Upright, arching branches. Yellow fall color. Resistant to insects/disease.	2” Cal.
Gymnocladus dioica	Kentucky Coffeetree	H 50' W 35'	Erect, rounded crown. Mahogany seed pods provide winter interest. Yellow fall color. Tolerates alkaline/salt.	2” Cal.
Morus alba 'Stribling' Fruitless	White Mulberry	H 30' W 40'	Fast growing. Large maple-like leaves.	2” Cal.
Quercus bicolor	Swamp White Oak	H 50' W 35'	Dark green leaves with velvety, white undersides; Tolerant of saline soils. Yellow to orange fall color.	2” Cal.
Quercus macrocarpa	Burr Oak	H 55' W 45'	Dark green leaves become yellow brown in fall. Broad and spreading with maturity. Large and ornamental acorns.	2” Cal.
Tilia tomentosa 'Sterling Silver'	Silver Linden	H 45’ W 35’	Dark green leaves are silvery, white underneath. Yellow flower in early summer. Drought and pollution tolerant.	2” Cal.
Ulmus parvifolia	Lacebark Elm	H 50' W 30'	Foliage turns orange-rust in fall. Attractive exfoliating bark.	2” Cal.
Ulmus x. Frontier	Elm	H 40’ W 30’	Beautiful reddish-purple to burgundy fall color.	2” Cal.
Zelkova Serrata ‘Green Vase’	Green Vase Zelkova	H 50’ W 40’	Vase shaped tree with finely serrated leaves. Green foliage turns bronze in fall.	2” Cal.
Zelkova Serrata ‘Village Green’	Village Green Zelkova	H 40’ W 40’	Green foliage turns rusty-red in fall.	2” Cal.

Legacy Parkway Area Tree Palette – Photo Examples

SUGGESTED TREES	 Celtis laevigata Sugarberry	 Celtis occidentalis Common Hackberry
 Gymnocladus dioica Kentucky Coffeetree	 Morus alba 'Stribling' White Mulberry	 Quercus bicolor Swamp White Oak
 Quercus macrocarpa Burr Oak	 Tilia tomentosa 'Sterling Silver' Silver Linden	 Ulmus parvifolia Lacebark Elm
	 Zelkova Serrata ‘Green Vase’	

Ulmus x. Frontier Elm	Green Vase Zelkova	Zelkova Serrata 'Village Green' Village Green Zelkova

c. Prepare landscaped areas with soils and slopes suited to the Legacy Parkway natural setting to encourage healthy plant growth and proper drainage.

d. Design water features, walls and other landscape features to appear natural and reflect the shoreland motif, particularly in highly visible areas from adjacent streets, pathways, trails and corridors.

(8) Fences and walls - Design fences and walls for a seamless transition between the natural and developed areas.

a. Minimize fences and walls to:

i. allow people, wildlife, and plant seeds to flow between spaces,

ii. visually connect areas,

iii. blend in with the environment.

b. Maximize access to the Legacy Parkway Trail with gates, open fences and openings in walls to the extent fences or other barriers are used.

c. Use open fencing for safety and access control. Avoid solid fences and walls above eye level in height.

d. Use berming or landscaping for screening instead of walls. Low walls integral to berms are appropriate. Avoid large retaining walls.

e. Avoid sound walls. The Legacy Parkway road was designed to minimize noise so no sound walls are included in its construction.

f. Design walls and fences to reflect the shoreland motif and Legacy Parkway designs.

(9) Lighting - Protect the dark skies of the Legacy Parkway environment that are an integral part of its natural intrinsic quality.

a. Minimize lighting within the Legacy Parkway Corridor.

i. Use unobtrusive lighting in gateway areas to provide a transition between urban and natural areas.

ii. Ramp-up lighting levels based on distance from the Legacy Parkway.

iii. Use the minimum amount of light needed for safety and security of entries, parking, pedestrian areas, parks, trailheads, and other public places.

iv. Light only areas that support or encourage nighttime usage.

b. Design lighting to enhance both the environment and Legacy Parkway aesthetics.

i. Use lighting fixtures in the Parkway Streetscape design program to unify streets and developments adjacent to the Parkway.

ii. Select fixtures that reflect the shoreland motif.

iii. Use hidden, full cut-off fixtures.

c. Select light fixtures that minimize glare, light trespass and energy use.

i. Use the lowest wattage possible.

ii. Use a combination of light fixtures suited for specific areas and uses.

d. Locate lighting selectively.

i. Use a greater number of small, low-intensity fixtures instead of large, high intensity lights.

ii. Minimize accent lighting for signs, buildings, and landscape.

(Ord. 315-10, approved 02/02/2010)

Chapter 17.32 GENERAL COMMERCIAL DISTRICT, C-G

Sections:

17.32.010 Purpose.

The C-G general commercial district is intended to provide areas in appropriate locations where a combination of business, commercial, entertainment and related activities may be established, maintained and protected. Regulations of this district are designed to provide a suitable environment for those commercial and service uses which are vital to economic life and provide commercial services to the community. (Prior code § 9-11-1)

17.32.020 Permitted uses.

The following uses are permitted in C-G general commercial districts:

A. Appliance and small equipment repair, including shoe repair;

B. Drug store;

C. Dry cleaning;

D. General merchandise sales;

E. Offices, business and professional;

F. Personal services;

G. Public and quasi-public institutions;

H. Convenience store;

I. Banking and financial services;

J. Restaurants, cafeterias and fast food eating establishments;(Prior code § 9-11-2)

17.32.030 Conditional uses.

The following uses are conditional in C-G general commercial districts:

A. Liquor, retail, package store;

B. Drinking places (alcoholic beverages);

C. Residential health care facility;

D. Reception center, meeting hall;

E. Motor vehicle sales and service (excluding auto body repair);

F. Grocery store;

G. Lumber and other building material, retail sales;

H. Marine and aircraft retail sales, and accessories;

I. Theaters;

J. Commercial schools;

K. Hospitals and medical service facilities;

L. Hotel, Motel and extended stay facilities; and

M. Other retail businesses which are similar to those listed in this section and Section 17.32.020, as determined by the planning commission. (Ord. 253-98 (part): prior code § 9-11-3)

17.32.040 Area and frontage regulations.

There shall be no area or frontage requirement for an individual lot in the C-G district except that each shall provide at least one hundred (100) feet of frontage on any side abutting an arterial or collector street. No frontage requirement shall apply to sides of lots abutting other streets. (Prior code § 9-11-4)

17.32.050 Yard regulations.

The following regulations apply in the C-G general commercial district:

A. Front Yard. The minimum front yard setback for all structures shall be twenty-five (25) feet;

B. Side Yard. The minimum side yard setback for all structures in a CG zone shall be ten (10) feet except when the planning commission determines a zero to ten (10) foot lot line is desirable or appropriate, whereupon the request will become a conditional use and shall require approval of the planning commission. Where the parcel abuts any residential zone or predominantly residential area, a side yard of at least thirty (30) feet shall be provided on that side adjacent to a residential zone/area. The side yard requirement adjacent to a residential zone may be modified if approved by the planning commission. On corner lots the side yard which faces the street shall not be less than twenty (20) feet for all structures.

C. Rear Yard. The minimum rear yard setback for all structures in a CG zone shall be twenty (20) feet, except when the planning commission determines a zero to twenty (20) foot lot line is desirable or appropriate, thereupon the request will become a conditional use and shall require approval of the planning commission. Where the parcel abuts a residential zone or predominantly residential area, a rear yard of thirty (30) feet shall be provided. The rear yard requirement adjacent to a residential zone/area may be modified if approved by the planning commission. (Amended 9/6/94; prior code § 9-11-5)

17.32.060 Height regulations.

No structure shall be erected to a height greater than one hundred (100) feet. Structures may be erected to a height greater than one hundred (100) feet upon review and specific approval by the planning commission. (Prior code § 9-11-6)

17.32.070 Off-street parking.

A. Off-street access and parking shall be provided and designed as specified in Chapter 17.52.

B. No parking space shall be provided that would allow a vehicle to back out directly into a public street. (Prior code § 9-11-7)

17.32.080 Development standards.

A. Site Plan. A site plan for all phases of the proposed development shall be presented for review and approval, as provided in the land development code.

B. Landscaping. No less than fifteen (15) percent of the total lot area shall be landscaped. A landscaping plan shall be approved by the planning commission as a part of the site plan review. Required side and rear yard areas may be used for driveways or parking; provided, that trees and shrubs of sufficient size and quantity to assure a visual screen from abutting residential properties are installed. All landscaping shall be adequately irrigated and maintained. The planning commission may require a performance bond or cash deposit, in an amount estimated by the planning commission as equivalent to the cost of the required landscaping, to assure installation of required landscaping within six months of approval date. A building permit shall not be granted until receipt of such bond or deposit.

C. Outdoor Storage and Merchandising. Storage and merchandising shall be accomplished entirely within an enclosed structure or as provided by the zoning matrix. (Ord. 269-00 (part); prior code § 9-11-8)

Chapter 17.34 HIGHWAY COMMERCIAL DISTRICT, C-H

Sections:

17.34.010 Purpose.

The highway commercial (C-H) district is intended to provide areas in appropriate locations where a combination of business, construction related and other commercial activities may be established, maintained and protected. Regulations of this district are designed to provide a safe and suitable environment for those commercial uses that provide service to the surrounding community.

17.34.020 Permitted uses.

The following uses are permitted in the C-H highway commercial district:

A. Appliance and small equipment repair;

B. Lawn and yard Care;

C. Printing and publishing;

D. Offices, business and professional;

E. Silk-screening;

F. Public and quasi-public facilities not prohibited in Section 17.34.040;

G. Convenience store;

H. Contractor offices, including but not limited to general, electrical, mechanical, heat, ventilation and air conditioning, plumbing, and landscaping; and

I. Indoor storage units.

17.34.030 Conditional uses.

The following uses are conditional in the C-H highway commercial district:

A. Liquor, retail, package store;

B. Drinking places with alcoholic beverages;

C. Motor vehicle sales and service (excluding auto body repair) and outdoor storage of retail vehicle inventory;

D. Reception center, meeting hall;

E. Marine and aircraft retail sales and accessories;

F. Lumber and other building materials retail sales;

G. Custom woodworking (as approved by the fire marshal);

H. Warehousing, as a primary use, unless prohibited in Section 17.34.040;

I. Car wash as ancillary to a convenience store;

J. General merchandise sales;

K. Outdoor storage of equipment, landscaping materials and seasonal inventory incidental to an approved permitted or conditional use;

L. Indoor fabrication, machining or welding of materials or equipment not for resale;

M. Equipment sales, service and/or repair, including outdoor repair and welding; and

N. Other commercial businesses which are similar to those listed in this section and Section 17.34.020, as determined by the planning commission.

17.34.040 Prohibited Uses.

The following uses are prohibited in the C-H highway commercial district:

A. Salvage yards;

B. Parts yards;

C. Residential dwelling units;

D. Motor vehicle warehousing, salvage, or storage (whether indoor or outdoor);

E. Recycling centers/recycling collection areas;

F. Rehabilitation/treatment centers, transitional housing, residential facilities for elderly persons, residential facilities for persons with a disability, boarding homes, and any other facility subject to the regulations of Chapter 17.84 of this title;

G. Schools and churches;

H. Storage of petrochemicals, not for retail sales;

I. Correctional facilities or facilities with similar uses;

J. Sexually oriented businesses; and

K. Single retail unit space over seventy-five thousand (75,000) square feet.

17.34.050 Frontage regulations.

Each individual lot in the C-H district shall provide at least one hundred (100) feet of frontage on any side abutting an arterial or collector street. No frontage requirement shall apply to sides of lots abutting other streets.

17.34.060 Yard regulations.

The following regulations apply in the C-H highway commercial district:

A. Front Yard. The minimum front yard setback for all structures shall be twenty-five (25) feet;

B. Side Yard. The minimum side yard setback for all structures in a C-H zone shall be ten (10) feet except when the planning commission determines a zero to ten (10) foot lot line is desirable or appropriate, whereupon the request will become a conditional use and shall require approval of the planning commission. Where the parcel abuts any residential zone or predominantly residential area, a side yard of at least thirty (30) feet shall be provided on that side adjacent to a residential zone/area. The side yard requirement adjacent to a residential zone may be modified if approved by the planning commission. On corner lots, the side yard which faces the street shall not be less than twenty (20) feet for all structures.

C. Rear Yard. The minimum rear yard setback for all structures in a C-H zone shall be twenty (20) feet, except when the planning commission determines a zero to twenty (20) foot lot line is desirable or appropriate, thereupon the request will become a conditional use and shall require approval of the planning commission. Where the parcel abuts a residential zone or predominantly residential area, a rear yard of thirty (30) feet shall be provided. The rear yard requirement adjacent to a residential zone/area may be modified if approved by the planning commission.

D. Required side and rear yard areas may be used for driveways or parking provided that trees and shrubs of sufficient size and quantity are installed to assure a visual screen from abutting residential properties.

17.34.070 Height regulations.

No structure shall be erected to a height greater than sixty (60) feet without review and specific approval by the Planning Commission.

17.34.080 Off-street parking.

A. Off-street access and parking shall be provided and designed as specified in Chapter 17.52.

B. No parking space shall be provided that would allow a vehicle to back out directly into a public street.

C. If parking is located in the front yard, there shall be a minimum of ten (10) feet of landscaping between the property line along the roadway and the parking stalls.

D. Parking lots shall be provided with landscaping along the periphery of any boundary that abuts a public road or residential zone.

17.34.090 Development standards.

A. Site Plan. A site plan for all phases of the proposed development shall be presented to the City for review and approval, as provided in the land development code.

B. Landscaping.
   1. A landscaping plan shall be submitted to and approved by the City as a part of the site plan review;
   2. No less than twenty-five percent (25%) of the front set back shall be landscaped. All landscaped areas shall be landscaped with a mixture of grasses, ground cover, shrubs and trees, and may include sculptures, fountains and patios. Unimproved areas (raw ground) without native trees will not count toward such landscaping requirement;
   3. All landscaping shall be adequately irrigated and maintained in a healthy, neat and attractive manner; and
   4. The City may require a performance bond or cash deposit, in an amount estimated by the City as equivalent to the cost of the required landscaping, to assure installation of required landscaping within six months of approval date. A building permit shall not be granted until receipt of such bond or deposit.

C. Design Standards.
   1. The required minimum front setback may be reduced by ten feet (10') if the entire setback area incorporates manicured landscaping and berming;
   2. Building exterior materials facing the public road shall be eighty-five (85%) percent brick, stone, stucco, glass, colored decorative block or cement fiberboard, or stone aggregate; and
   3. All outdoor storage must comply with Section 17.92 of this code. If allowed, all outdoor storage shall be screened from public view and shall be located in the side or rear yard, provided that landscaping may be used in conjunction with berms, walls and fences to screen outdoor storage areas from public view.

(Ord. 333-11, approved 10/04/2011)

Chapter 17.36 LIGHT INDUSTRIAL DISTRICT, L-I

Sections:

17.36.010 Purpose.

The light industrial L-I district is established to provide areas in the city where manufacturing firms can engage in processing, assembling, manufacturing, warehousing and storage, and for incidental service facilities and public facilities where heavy industrial processes are not allowed to intrude, and where these uses can be separated from general commercial areas frequented by the public. The district is intended to encourage sound development by providing and protecting an environment for unobtrusive uses and attractive, aesthetically pleasing areas. Representative uses in this district would be research parks, professional offices and light wholesale distribution facilities. (Prior code § 9-12-1)

17.36.020 Permitted uses.

The following uses are permitted in light industrial L-I districts:

A. Appliance and small equipment repair, including shoe repair;

B. Equipment sales, service and repair;

C. Printing and publishing;

D. Research and development;

E. Offices, business and professional;

F. Warehousing and storage facilities;

G. Public and quasi-public institutions; and

H. Retail commercial uses. (Prior code § 9-12-2)

17.36.030 Conditional uses.

The following uses are conditional in light L-I districts:

A. Light manufacturing, compounding, processing, milling or packaging of products, which must be accomplished entirely within an enclosed structure, including but not limited to the following:

1. Automotive parts and accessories, but not including tires and batteries,
2. Steel structural members and related products,
3. Lumber and wood products,
4. Apparel and other textile products,
5. Paper and allied products,
6. Rubber and plastic products, and
7. Electronic and electrical products;

B. Other uses and businesses which are considered similar to those listed in this section and Section 17.36.020, as determined by the planning commission. (Prior code § 9-12-3)

17.36.040 Area and frontage regulations.

There shall be no area or frontage requirement for an individual lot in a L-I district except that each shall provide at least one hundred (100) feet of frontage on any side abutting an arterial or collector street. No frontage requirement shall apply to sides of lots abutting other streets. (Prior code § 9-12-4)

17.36.050 Yard regulations.

The following regulations apply in an L-I light industrial district:

A. Front Yard. The minimum front yard setback for all structures shall be twenty-five (25) feet.

B. Side Yard. The minimum side yard setback for all structures shall be ten (10) feet, except where the parcel abuts any residential district a side yard of at least thirty (30) feet shall be provided on that side adjacent to the residential zone. The side yard requirement adjacent to a residential district may be modified if justified and approved by the planning commission. On corner lots the side yard which faces the street shall not be less than twenty (20) feet for all structures.

C. Rear Yard. The minimum rear yard setback for all structures shall be twenty (20) feet, except where the parcel abuts a residential district a rear yard of thirty (30) feet shall be provided. The rear yard requirement adjacent to a residential district may be modified if justified and approved by the planning commission. (Prior code § 9-12-5)

17.36.060 Height regulations.

No structure shall be erected to a height greater than one hundred (100) feet. Structures may be erected to a height greater than one hundred (100) feet upon review and specific approval by the planning commission. (Prior code § 9-12-6)

17.36.070 Off-street parking.

A. Off-street access and parking shall be provided and designed as specified in Chapter 17.52.

B. No parking space shall be provided that would allow a vehicle to back out directly into a public street. (Prior code § 9-12-7)

17.36.080 Development standards.

A. Site Plan. A site plan for all phases of the proposed development shall be presented for review and approval, as provided in the land development code.

B. Landscaping. No less than fifteen (15) percent of the total lot area being developed shall be landscaped. A landscaping plan shall be approved by the planning commission as a part of the site plan review. Required side and rear yard areas may be used for driveways or parking; provided, that trees and shrubs of sufficient size and quantity to assure a visual screen from abutting residential properties are installed. All landscaping shall be adequately irrigated and maintained. The planning commission may require a performance bond or cash deposit, in an amount estimated by the planning commission as equivalent to the cost of the required landscaping, to assure installation of required landscaping within six months of approval date. A building permit shall not be granted until receipt of such bond or deposit.

C. Outdoor Storage and Merchandising. Storage and merchandising shall be accomplished entirely within an enclosed structure or as provided by the zoning matrix following this title. (Ord. 269-00 (part); prior code § 9-12-8)

Chapter 17.40 GENERAL INDUSTRIAL DISTRICT, I-G

Sections:

17.40.010 Purpose.

The general industrial district I-G is intended to provide for areas in appropriate locations where heavy industrial processes necessary to economic activity and prosperity may be conducted. The regulations of this district are intended to protect the environment of the district, adjacent areas, and of the community as a whole, as well as provide an area where these uses may be conducted without interference from the activities associated with other unrelated uses such as commercial traffic or residences. (Prior code § 9-13-1)

17.40.020 Permitted uses.

The following uses are permitted in general industrial I-G districts:

A. Equipment sales, service and repair;

B. Printing and publishing;

C. Research and development;

D. Offices, business and professional;

E. Warehousing and storage facilities;

F. Manufacturing, compounding, process-ing, milling or packaging of products, including but not limited to the following:

    1. Automotive parts and accessories, but not including tires and batteries,

    2. Steel structural members and related products;

    3. Lumber and wood products,

    4. Apparel and other textile products,

    5. Paper and allied products,

    6. Rubber and plastic products,

    7. Electronic and electrical products; and

G. Public and quasi-public institutions. (Prior code § 9-13-2)

17.40.030 Conditional uses.

The following uses are conditional in general industrial I-G districts:

A. Storage of inflammable bulk liquids;

B. Outdoor storage of merchandise or equipment; and

C. Other uses and businesses which are considered similar to those listed in this section and Section 17.40.020, as determined by the planning commission. (Prior code § 9-13-3)

17.40.040 Area and frontage regulations.

There shall be no area or frontage requirement for an individual lot in a I-G district except that each shall provide at least one hundred (100) feet of frontage on any side abutting an arterial or collector street. No frontage requirement shall apply to sides of lots abutting other streets. (Prior code § 9-13-4)

17.40.050 Yard regulations.

The following regulations apply in general industrial I-G districts:

A. Front Yard. The minimum front yard setback for all structures shall be twenty-five (25) feet;

B. Side Yard. The minimum side yard setback for all structures shall be ten (10) feet, except where the parcel abuts any residential district a side yard of at least thirty (30) feet shall be provided on that side adjacent to the residential zone. The side yard requirement adjacent to a residential district may be modified if justified and approved by the planning commission. On corner lots the side yard which faces the street shall not be less than twenty (20) feet for all structures.

C. Rear Yard. The minimum rear yard setback for all structures shall be twenty (20) feet, except where the parcel abuts a residential district a rear yard of thirty (30) feet shall be provided. The rear yard requirement adjacent to a residential district may be modified if justified and approved by the planning commission. (Prior code § 9-13-5)

17.40.060 Height regulations.

No structure shall be erected to a height greater than one hundred (100) feet. (Prior code § 9-13-6)

17.40.070 Off-street parking.

A. Off-street access and parking shall be provided and designed as specified in Chapter 17.52.

B. No parking space shall be provided that would allow a vehicle to back out directly into a public street. (Prior code § 9-13-7)

17.40.080 Development standards.

A. Site Plan. A site plan for all phases of the proposed development shall be presented for review and approval, as provided in the land development code.

B. Landscaping. No minimum area is required; however, landscaping shall be considered and provided where deemed appropriate. A landscaping plan shall be approved by the planning commission as a part of the site plan review. Required side and rear yard areas may be used for driveways or parking;

provided, that trees and shrubs of sufficient size and quantity to assure a visual screen from abutting residential properties are installed. All landscaping shall be adequately irrigated and maintained. The planning commission may require a performance bond or cash deposit, in an amount estimated by the planning commission as equivalent to the cost of the required landscaping, to assure installation of required landscaping within six months of approval date. A building permit shall not be granted until receipt of such bond of deposit.

C. Outdoor Storage and Merchandising. The storage of merchandise or equipment shall be accomplished entirely within an area enclosed by a wall or other visual screen. (Prior code § 9-13-8)

Chapter 17.44 SUPPLEMENTARY REGULATIONS

Sections:

17.44.010 Building permits--Site plan required.

An application for a building or use permit shall be made to the city building inspector, and shall include a site plan and such other information as may be required by these ordinances.

Building permits shall be issued following submission of a site plan as set forth in Section 15.08.020. No building or structure shall be constructed, reconstructed, altered or moved and no land shall be used except after issuance of the building, use and occupancy permits required by these ordinances. (Prior code § 9-14-1)

17.44.020 Conditional use permit required for restricted lots.

No building permits shall be issued for construction of any building or structure to be located on a restricted lot unless a valid conditional use permit for the same has previously been issued pursuant to these ordinances. (Prior code § 9-14-2)

17.44.030 Substandard lots at time of zoning code passage.

Any lot legally held in separate ownership at the time of adoption of this zoning code, which lot is below the requirements for lot area or lot width for the district in which it is located and on which lot a dwelling would be permitted if the lot met the area requirements of the zoning code, may be used for a single-family dwelling if such a lot is located in an R-1 or an R-M district. The width of each of the side yards for such a dwelling may be reduced to a width which is not less than the same percentage of the lot width as the required side yard would be of the required lot width; provided, that in no case shall the smaller of the two yards be less than five feet, nor shall the total width of the two yards be less than thirteen (13) feet. (Prior code § 9-14-3)

17.44.040 Nonconforming lots prohibited.

After adoption of this zoning code, no lot having less than the minimum width and area required in the district in which it is located may be created, nor shall building permits be issued for construction on such nonconforming lots created subsequent to adoption of this zoning code. (Prior code § 9-14-4)

17.44.050 Lot standards and street frontage.

Except for planned unit developments, condominiums, and as otherwise provided in this title, every lot presently existing or hereafter created shall have such area, width and depth as is required by this title for the district in which such lot is located and shall have frontage upon a public street or upon a private street or right-of-way approved by the planning commission, before a building permit may be issued; provided, that no lot containing five acres or less shall be created which is more than three times as long as it is wide. (Prior code § 9-14-5)

17.44.060 Every dwelling to be on a lot--Exceptions.

Every dwelling structure shall be located and maintained on a separate lot having no less than the minimum area, width, depth and frontage required by this title for the district in which the dwelling structure is located, except that farm or ranch dwellings, group dwellings, condominiums and other multi-structure dwelling complexes under single ownership and management, which are permitted by this title and have approval from the planning commission, may occupy a single lot. (Prior code § 9-14-6)

17.44.070 Lots and dwellings fronting on private streets--Special provisions.

Lots with frontage only on private streets shall be allowed by conditional use permit procedure only, and shall be subject to all applicable requirements of this title. (Prior code § 9-14-7)

17.44.080 Yard space for one building only.

No required yard or other open space around an existing building or which is hereafter provided around any building for the purpose of complying with the provisions of this title shall be considered as providing a yard or open space for any other building. Nor shall any yard or other required open space on an adjoining lot be considered as providing a yard or open space on a lot whereon a building is established. (Prior code § 9-14-8)

17.44.090 Yards to be unobstructed--Exceptions.

Every part of a required yard shall be open to the sky, unobstructed except for permitted accessory buildings in a rear yard; ordinary architectural projections of sky-lights, sills, belt courses, cornices, chimneys, flues; and other ornamental features which project into a yard not more than two and one-half feet; open or lattice-enclosed fire escapes; and fireproof outside stairways and balconies opening upon fire towers projecting into a yard not more than five feet.

Architectural projections are those projections not intended for occupancy which extend beyond the face of a building or structure. (Prior code § 9-14-9)

17.44.100 Exceptions to height limitations.

Penthouse or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, and fire or parapet walls, skylights, towers, steeples, flagpoles, chimneys, smokestacks, water tanks, wireless or television masts, theater lofts, silos or similar structures may be erected above the height limits herein prescribed, but no space above the height limit shall be allowed for purposes of providing additional floor space, nor shall such increased height be in violation of any other ordinance or regulation of the city. (Prior code § 9-14-10)

17.44.110 Additional height allowed.

Public buildings and utility buildings, when authorized in a district, may be erected to a height greater than the district height limit by conditional use permit. (Prior code § 9-14-11)

17.44.120 Minimum height of dwellings.

No dwelling shall be erected to a height less than one story above grade, except in a planned unit development. (Prior code § 9-14-12)

17.44.130 Maximum height and floor area of accessory buildings.

No building which is accessory to a one family, two-family, three-family or four-family dwelling shall be erected to a height greater than one story or twenty (20) feet, whichever is lower, or be higher or contain greater square foot floor area than the principal building to which it is accessory. (Prior code § 9-14-13)

17.44.140 Area of accessory buildings.

No accessory building or group of accessory buildings in any residential district shall cover more than twenty-five (25) percent of the rear yard. (Prior code § 9-14-14) No structure or group of structures exempted from yard obstruction in any residential district shall cover more than fifty (50%) percent of the front yard or side yard.

17.44.150 Water and sewage requirements.

In all cases when a proposed building or proposed use will involve the use of sewerage facilities, and a connection to a public sewer system as defined by the Utah State Division of Health is not available; and in all cases when a connection to a public water system approved by the Utah State Division of Health is not available, the sewage disposal system and the domestic water supply shall comply with state and local board of health requirements. Applications for building permits shall be accompanied by a certificate of feasibility from said board or Division of Health. The application shall also evidence the physical presence, legal right to and availability of culinary water acceptable to the city, shall show the actual physical presence, legal right and availability of culinary water for the sole use of the proposed building or use. (Prior code § 9-14-15)

17.44.160 Clear view of intersecting streets.

In all districts which require a front yard, no obstruction to view in excess of two feet in height shall be placed on any corner lot within a triangular area formed by the street property lines and a line connecting them at points forty (40) feet from the intersection of the street lines, except pedestal type identification signs and pumps at gasoline service stations, and a reasonable number of trees pruned so as to permit unobstructed vision to automobile drivers. (Prior code § 9-14-16)

17.44.170 Fences required when.

When approved by the city council, the planning commission may require the erection of fences as a prerequisite to approval of any project or to the granting of any building permit when, in the opinion of the commission, this is necessary to protect life and property. Such fences may be of a type and size necessary, in the opinion of the planning commission, to accomplish the above-stated purpose. (Prior code § 9-14-17)

17.44.180 Maximum height of fences, walls and hedges.

A. Fences, walls and hedges may be erected or allowed to the permitted building height in the district when located within the buildable area already required.

B. Fences, walls and hedges may not exceed six feet in height within any required rear yard or interior side yard.

C. Notwithstanding any other provisions herein, no view-obscuring fence, wall or hedge exceeding two feet in height shall be erected or allowed closer to any street line than the required building setback line. Non view-obscuring fences or walls may be erected to a maximum height of four feet.

D. For purposes of this section, single shrub planting shall not constitute a hedge if the closest distance between the foliage of any two plants is and remains at least five feet.

E. When a fence, wall, or hedge is located along a property line separating two lots and there is a difference in the grade of the properties on the two sides of the property line, the fence, wall, or hedge may be erected or allowed to the maximum height permitted on either side of the property line. (Prior code § 9-14-18)

17.44.190 Sale or lease of required space.

No space needed to meet the width, yard, area, coverage, parking or other requirements of this title for lot or building may be sold or leased away from such lot or building. (Prior code § 9-14-19)

17.44.200 Location of gasoline pumps.

Gasoline pumps shall be set back no less than eighteen (18) feet from any street line to which the pump island is vertical; twelve (12) feet from any street line to which the pump island is parallel, and ten (10) feet from any residential or agricultural district boundary line. If the pump island is set at an angle on the property, it shall be so located that the automobiles stopped for service will not extend over the property line. (Prior code § 9-14-20)

17.44.210 Utility extensions only to permitted buildings.

No sewer service line, no water service line, no electrical or gas utility line shall be installed by a public or private company to the building, structure, or use thus served which would be in violation of this title. (Prior code § 9-14-21)

17.44.220 Utilities responsible for excavations.

It is the intent of this title to hold franchised utilities responsible for all excavations, backfilling and paving. To this end all such work, whether done by a private or public entity, shall be commenced only pursuant to the issuance of an excavation permit as set forth in these ordinances. Curbs and fills shall be constructed according to standards established by the city, and approval of the same shall be evidenced by a release of responsibility signed by the city engineer after approval by the city council. (Prior code § 9-14-22)

17.44.230 Exactions.

The city may impose an exaction or exactions on proposed land use development if:

A. An essential nexus exists between a legitimate governmental interest and each exaction; and

B. Each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.

17.44.240 Vested rights.

A.

1. An applicant is entitled to approval of a land use application if the application conforms to the requirements of the West Bountiful zoning map and applicable land use ordinance in effect when a complete application is submitted and all fees have been paid, unless:
   (a) the governing body, on the record, finds that a compelling, countervailing public interest would be jeopardized by approving the application; or
   (b) in the manner provided by local ordinance and before the application is submitted, the municipality has formally initiated proceedings to amend its ordinances in a manner that would prohibit approval of the application as submitted.

2. The city shall process an application without regard to proceedings initiated to amend the municipality's ordinances if:
   (a) 180 days have passed since the proceedings were initiated; and
   (b) the proceedings have not resulted in an enactment that prohibits the approval of the application as submitted.

3. An application for a land use approval is considered submitted and complete when the application is provided in a form that complies with the requirements of applicable ordinances and all applicable fees have been paid.

7. The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

5. The city shall not impose on a holder of an issued land use permit a requirement that is not expressed:
   (a) in the land use permit or in documents on which the land use permit is based; or
   (b)in the West Bountiful ordinances.

6. The city will not withhold issuance of a certificate of occupancy because of an applicant's failure to comply with a requirement that is not expressed:
   (a) in the building permit or in documents on which the building permit is based; or

(b) in the West Bountiful ordinances.

B. The city is bound by the terms and standards of applicable land use ordinances and shall comply with mandatory provisions of those ordinances.

(17.44 Amended March 4th, 2008; Ord. 300-08)

Chapter 17.48 SIGNS

Sections:

17.48.010 Short title.

The regulations contained in this chapter shall be known and may be cited as sign regulations of the land development code of the city. (Prior code § 9-15-1)

17.48.020 Purpose.

The purpose of the sign regulations set forth in this chapter shall be to minimize potential hazards to motorists and pedestrians; to encourage signs which, by their design, are integrated with and harmonious to the buildings and sites which they occupy; to encourage sign legibility through the elimination of excessive and confusing sign displays; to reduce driver inattention; to preserve and improve the appearance of the city as a place in which to live and to work and as an attraction to non-residents who come to visit or trade; to

safeguard and enhance property values; to protect public and private investment in buildings and open spaces; to supplement and be a part of the regulations imposed and the plan set forth under the zoning ordinances of the city; and to promote the public health, safety and general welfare. (Prior code § 9-15-2)

17.48.030 Scope.

This chapter shall not relate to building design. Nor shall this chapter regulate official traffic or government signs; the copy and message of signs; signs not intended to be viewed from a public right-of-way; window displays; product dispensers and point of purchase displays; scoreboards on athletic fields; flags of any nation, government or noncommercial organization; gravestones; barber poles; religious symbols; commemorative plaques, the display of street numbers; or any display or construction not defined herein as a sign. (Prior code § 9-15-3)

17.48.040 General provisions.

A. It is unlawful for any person to erect, place or maintain a sign in the city of West Bountiful except in accordance with the provisions of this chapter.

B. All signs erected hereafter in the city shall comply with the current standards of the National Electrical Code, Uniform Building Code, and Uniform Sign Code.

C. All signs shall be properly maintained in good condition. Exposed surfaces shall be clean and painted if paint is required. Defective parts shall be replaced. The zoning administrator shall have the right to order the repair or removal of any sign which is defective, damaged, or substantially deteriorated, as defined in the Uniform Building Code and Uniform Sign Code.

17.48.050 Permits required.

Unless otherwise provided by this title, all signs shall require permits and payment of fees as specified periodically by resolution of the city council. Application for permits shall be made to the zoning administrator upon a form provided by the administrator. No permit is required for maintenance of a sign or for a change of copy on painted, printed or changeable copy signs. (Prior code § 9-15-5)

17.48.060 Signs not requiring permits.

The following types of signs are exempted from permit requirements but must be in conformance with all other requirements of this chapter:

A. Construction signs of sixteen (16) square feet or less;

B. Directional/information signs of nine square feet or less;

C. Holiday or special events decorations;

D. Nameplates of two square feet or less;

E. Political signs;

F. Public signs or notices, or any sign relating to an emergency;

G. Real estate signs;

H. Window signs; and

I. Incidental signs. (Prior code § 9-15-6)

Section 17.48.070 Prohibited signs.

The purpose of prohibiting signs listed in this section is to protect the safety and welfare of the people of the city, to minimize traffic hazards and distraction, and to promote beneficial community appearance. Therefore, notwithstanding any provision of this Chapter to the contrary, the following signs shall not be permitted, erected, or maintained within the city:

A. Signs with visible moving, revolving, or rotating parts or visible mechanical movement of any description.

B. Signs with optical illusion of movement by means of a design which presents a pattern capable of reversible perspective, giving the illusion of motion or changing of copy.

C. Signs with lights or illumination, which flash, move, rotate, scintillate, blink, flicker, vary in intensity, vary in color, or use intermittent electrical pulsations.

D. Strings of light bulbs used in connection with commercial premises for commercial purposes, other than traditional holiday decorations during the holiday season.

E. Signs which:

1. Emit, or are designed to emit, by any means, a sound intended to attract attention.

2. Involve the use of live or preserved animals.

3. In their design or operation create unsafe glare for motor vehicle operators.

F. Any sign (together with its supporting structure) now or hereafter existing which, seven (7) days or more after the premises on which the sign is located have been vacated, advertises an activity, use, business, product or service no longer produced or conducted upon such premises. If the sign is covered or the identifying symbols or letters are removed, the planning commission, upon good cause shown, may grant an extension of time to remove the sign. This provision shall not apply to permanent signs accessory to businesses that are open only on a seasonal basis, provided a clear intent to continue operation of the business is shown.

G. Any sign which is installed or erected in or projects into or over any public right-of-way, except in the case of a sign for which a permit has been issued in conformance with the requirements of this Chapter.

H. Signs not permanently affixed or attached to the ground or to any structure, except for real estate signs attached to posts driven into the ground and temporary signs and barriers otherwise permitted under this Chapter. Such prohibited non-permanent signs include snipe signs or signs attached to

trees, telephone poles, public benches, streetlights; or signs placed on any public property or public right-of-way.

I. Any sign or sign structure which constitutes a hazard to safety or health by reason of inadequate installation or maintenance, or dilapidation.

J. Any sign or sign structure which:

1. In any way interferes with, obstructs the view of, may be confused with, or purports to be an official traffic sign, signal or device or any other official sign;

2. Makes use of the words “STOP,” “DANGER,” or any other words, phrases, symbols or characters in such manner as to interfere with, mislead, or confuse traffic;

3. Obstructs free and clear vision at the intersection of any streets;

4. In its design or operation creates an unsafe distraction for motor vehicle operators; or,

5. Obstructs the view of motor vehicle operators entering a public roadway from any parking area, service drive, private driveway, alley or other thoroughfare.

K. Any sign which obstructs free ingress to or egress from a required door, window, fire escape or other required exit way.

L. Any sign with a change panel or removable text or panel feature, except as specifically allowed under the provisions of this Chapter.

M. Any sign not pertinent and clearly incidental to the permitted use on the property where located.

N. Portable signs not permanently affixed to any structure on the site or permanently mounted to the ground, or otherwise located on one or more wheels.

O. Signs mounted on, attached to or painted on motor vehicles, trailers or boats when (1) used as additional advertising signs on or near business premises, (2) not used in conducting a business or service, or (3) used in a way not associated with normal business operations or vehicle parking procedures.

P. Signs for the purpose of general outdoor advertising of products or services, or signs advertising a use, service or attraction not located in the city, except as specifically permitted under this Chapter.

Q. Flags, banners, wind signs or other devices designed or allowed to wave, flap or rotate with the wind except for flags, pennants, and insignias that are expressly permitted under this Chapter. Company flags or banners on flag-poles shall be permitted as part of the allowable sign area as defined in this Chapter. Flags and banners shall be allowed on a temporary basis as part of a "grand opening" or designated "special event or holiday" as permitted in this Chapter.

R. Sign banners of any size that are not associated with an approved “grand opening,” or “special event or holiday,” or are not otherwise permitted in this Chapter.

S. Decorative banners, except as otherwise specifically allowed in this Chapter.

T. Inflatable objects, except those specifically allowed in this Chapter.

U. Roof-mounted signs or signs which project above the highest point of the roof line or fascia of the building.

V. Signs of an advertising nature posted or glued directly on an exterior wall, fence or roof or affixed directly on such wall, fence or roof by any means of similar adhesive substance. No paper, cloth, vinyl or other non-rigid materials sign, except for flags as provided for elsewhere in this Chapter, shall be tacked directly on any exterior wall, fence or roof, except those allowed as temporary signs as defined in this Chapter.

W. Off-premise advertising signs.

X. Billboards; except for those billboards existing prior to the adoption of this Chapter, as may be allowed under Utah State law.

Y. Graffiti.

Z. Handbills posted on public places or objects.

AA. Any sign that appeals to or advertises a sexually-oriented business.

BB. Commercial signs in residential and agricultural zones except where a conditional use permit has been granted pursuant to the provisions of this Title.

CC. Any sign not in compliance with the provisions of this Chapter and/or any applicable provision of this Title. (Prior code § 9-15-7)

17.48.080 Signs permitted in all zones.

The following signs are allowed in all zones:

A. All signs not requiring permits;

B. One non-illuminated sign for each street frontage of a construction project, not to exceed forty-eight (48) square feet in sign area in residential zones or sixty-four (64) square feet in sign area in all other zones. Such signs may be erected sixty (60) days prior to beginning of construction and shall be removed within thirty (30) days following the completion of construction;

C. One non-illuminated sign per lot of premises not to exceed twelve (12) square feet in area. If real estate oriented, such signs must be removed fifteen (15) days following the sale, rental, or lease of real estate involved;

D. One non-illuminated attached building nameplate per occupancy, not to exceed two square feet in area;

E. Non-illuminated campaign signs not to exceed sixteen (16) square feet per lot. Such signs shall not be erected more than sixty (60) days prior to an election or referendum concerned and shall be removed ten (10) days following such election or referendum. Campaign signs may be placed on private property only, not on any public property or within any street or public right-of-way. Other

non-illuminated political signs not to exceed sixteen (16) square feet per lot and shall not be erected and placed for more than sixty (60) consecutive days at any one time on any lot.

F. Direction/information signs per lot as required; and

G. Temporary special events signs and decorations, to be erected for a period not to exceed forty-five (45) days prior to a special event or holiday, and shall be removed five days following the event or holiday. For grand openings, such signs may be used for no more than thirty (30) days. (Ord. 264-00 (part): prior code § 9-15-8)

H. Temporary signs and banners supporting non-profit sports organizations, which organizations are granted an exclusive seasonal permit for the placement of signs, may be placed at City owned recreational areas and shall conform to the following requirements:

1. Temporary signs and banners shall be no more than 24 square feet in area.

2. Temporary signs and banners shall be attached to existing fencing or structure. No independent form of anchorage shall be allowed.

3. Temporary signs and banners shall not be connected electrically, illuminated, flash, blink, spin, rotate, or block visibility of vehicles entering streets or parking areas.

4. Temporary signs and banners shall be anchored or attached to prevent detachment by the wind but shall also be designed with wind-pressure relief holes to prevent damage to the supporting fence.

5. A permit for temporary signs and banners shall include (a) a diagram of the sign including legends, lettering and artwork, (b) the location of the sign or banner, and (c) the location of adjacent signs or banners. West Bountiful City reserves the right to deny any sign permit they deem to be inappropriate or offensive to community standards.

6. Temporary signs or banners shall be allowed for a period not to exceed ninety (90) consecutive days within a one-year period.

7. The permit fee for each sign or banner shall be $20.00 per sign per display season.

8. Temporary signs and banners installed without a permit will be immediately removed and a penalty will be charged as defined in Chapter 1.16.010 of the Municipal Code. (Ord. 275-02)

17.48.090 Signs permitted in residential zones.

Signs are allowed as follows in residential zones A-1, R-1-22 and R-1-10:

A. One subdivision identification sign per street frontage or entrance, not to exceed forty-eight (48) square feet in area in each location; and

B. One non-illuminated identification sign per entrance to apartment or condominium complex, not to exceed thirty-six (36) square feet in area. (Prior code § 9-15-9)

17.48.100 Signs permitted in commercial and industrial zones.

Signs are allowed as follows in commercial and industrial zones C-N, C-G, L-I and I-G:

A. One free-standing sign for each street which the property has frontage on, not to exceed one square foot in area for each lineal foot of property frontage, up to a maximum area of one hundred twenty (120) square feet. Such signs shall not exceed a height of twenty-five (25) feet and must be set back at least two feet from property lines. Free-standing signs shall maintain a minimum clearance of ten (10) feet over any pedestrian use and fourteen (14) feet over any vehicular way;

B. Wall signs or electric awning signs which in total combined area do not exceed fifteen (15) percent of aggregate area of building elevation on which the signs are installed;

C. One roof sign may be allowed when no other sign types can provide effective identification. The area of the roof sign shall be included as part of the area allowed for wall signs. Roof signs shall be constructed so as to conceal all structures and fastenings. The height of the roof sign shall not exceed twenty (20) percent of the total height of the building to which it is attached;

D. On properties consisting of more than three acres and on which are located five or more businesses, a business directory sign may be used in place of a freestanding sign as described in Section 17.48.110(A). A business directory sign shall have a maximum sign area of two hundred fifty (250) square feet, and a maximum height of thirty-five (35) feet. Such signs must be set back at least two feet from property lines;

E. For properties located within one hundred fifty (150) feet of the I-15 freeway right-of-way, one freeway-oriented sign may be permitted. The principle purpose of such signs must be to address freeway traffic. A freeway-oriented sign may have a maximum sign area of two hundred fifty (250) square feet and a maximum height of sixty (60) feet. The edge of such signs must be set back at least two feet from property lines;

F. Portable and temporary signs may be used for a period not to exceed thirty (30) days in a calendar year. A permit from the city must be obtained before any such use, and any such sign must be installed in accordance with applicable building and electrical codes; and

G. Incidental signs not to exceed four square feet in aggregate area per occupancy. (Prior code § 9-15-10)

17.48.110 Nonconforming signs.

Nonconforming signs costing more than two hundred dollars ($200.00) to replace and legally existing at the time of the adoption of this chapter shall be exempt from compliance with the provisions of this chapter for a period of five years, after which time such signs shall be made to conform to such provisions and to any other sign provisions adopted by the city council subsequent to adoption of this chapter or shall be removed; nonconforming signs costing less than two hundred dollars ($200.00) and legally existing at the time of

adoption of this chapter shall be made to conform to such provisions within ninety (90) days of such notification. (Prior code § 9-15-11)

(17.48 Amended September 1st, 2009; Ord. 314-09)

Chapter 17.52 OFF STREET PARKING REQUIREMENTS

Sections:

17.52.010 Off-street parking required.

At the time any building or structure is erected or enlarged or increased in capacity or any use is established, off-street parking spaces shall be provided for automobiles in accordance with the following requirements, or as otherwise required by conditional use permit. (Prior code § 9-17-1)

17.52.020 Size.

The dimensions of each off-street parking space, exclusive of access drives or aisles, shall be at least ten (10) feet by twenty (20) feet for diagonal and ninety (90) degree spaces, and ten (10) feet by twenty-two (22) feet for parallel spaces. However, in parking lots of not less than twenty (20) parking spaces, upon site plan approval by the planning commission, up to forty (40) percent of such spaces may be seven and one-half feet by fifteen (15) feet if marked and used for compact automobiles only. (Prior code § 9-17-2)

17.52.030 Access to individual parking space.

Except for single-family and two-family dwellings, direct access to each parking space shall be from a private driveway and not from a public street. All parking spaces shall have independent access not blocked by another parking space or other obstacle. (Prior code § 9-17-3)

17.52.040 Number of parking spaces required.

An adequate number of parking spaces shall be provided for all uses as follows:

A. Business or professional offices: one parking space for each two hundred (200) square feet of floor area.

B. Churches with fixed seating: one parking space for each 3.5 fixed seats, or one parking space for each seven feet of linear pew, whichever is greater.

C. Churches without fixed seats, sports arenas, auditoriums, theaters, assembly halls, meeting rooms: one parking space for each three seats of maximum seating capacity.

D. Dwellings: two parking spaces for each dwelling unit.

E. Furniture and appliance stores: one parking space for each six hundred (600) square feet of floor area.

F. Hospitals: two parking spaces for each bed.

G. Hotels and motels: one space for each living or sleeping unit, plus parking space for all accessory uses as herein specified.

H. Nursing homes: four parking spaces, plus one space for each five beds.

I. Restaurants, taverns, private clubs, and all other similar dining and/or drinking establishments: one parking space for each 3.5 seats or one parking space for each one hundred (100) square feet of floor area (excluding kitchen, storage, etc.), whichever is greater.

J. Retail stores (except as provided in subsection E of this section): one parking space for each one hundred (100) square feet of retail floor space.

K. Wholesale establishments, warehouses, manufacturing establishments and all industrial uses: as determined by conditional use permit or by planned unit development requirements if applicable, or by the planning commission, but in no case fewer than one space for each employee projected for the highest employment shift.

L. Shopping center or other groups of uses not listed above: one parking space for each one hundred fifty (150) square feet of total floor space, or as determined by conditional use permit.

M. All other uses not listed above: as determined by conditional use permit based on the nearest comparable use standards. (Prior code § 9-17-4)

17.52.050 Access requirements.

Adequate ingress and egress to and from all uses shall be provided as follows:

A. Residential Lots. For each R-1-10, R-1-22, and A-1 residential lot, not more than two drive approaches which shall be a minimum of twelve (12) feet each and a maximum of thirty-two (32) feet wide at the property line, with a separation island of a minimum width of twelve (12) feet, maximum combined drive approach width of thirty-two (32) feet. The drive approach flare entrance shall be no closer than four feet (4') to the abutting property line, or as approved by the City Engineer.

B. Other Than Residential Lots. Access shall be provided to meet the following requirements:

1. Not more than two driveways shall be used for each one hundred (100) feet of frontage on any street;

2. No two of said driveways shall be closer to each other than twelve (12) feet, and no driveway shall be closer to a side property line than three feet;

3. Each driveway shall be not more than thirty-five (35) feet wide, measured at right angles to the center line of the driveway, except as increased by permissible curb return radii. The entire flare of any return radius shall fall within the right-of-way;

4. No driveway shall be closer than ten (10) feet to the point of intersection of two property lines at any corner as measured along the property line, and no driveway shall extend across such extended property line; and

5. On a street where there are no curbs or gutters, all driveways shall be well marked and protection provided the entire length of the frontage exclusive of the driveways as per approved plans. (Prior code § 9-17-5)

17.52.060 Maintenance of parking lots.

Every parcel of land used as a public or private parking lot shall be developed and maintained in accordance with the following requirements:

A. Surfacing. Each off-street parking lot shall be surfaced with an asphaltic or Portland cement or other binder pavement and permanently maintained so as to provide a dustless surface. The parking area shall be so graded as to dispose of all surface water. If such water is to be carried to adjacent streets, it shall be piped under sidewalks.

B. Screening. The sides and rear of any off-street parking lot which adjoins an area which is to remain primarily residential shall be screened from such area by a masonry wall or solid visual barrier fence not less than four nor more than six feet in height.

C. Landscaping. Each parking lot shall be adequately landscaped to comply with a plan approved by the planning commission and such landscaping shall be permanently maintained.

D. Lighting. Lighting used to illuminate any parking lot shall be arranged to reflect the light away from adjoining residential premises and from street traffic. (Prior code § 9-17-6)

17.52.070 Location of off-street parking.

Off-street parking shall not be allowed in required front yard setbacks except by conditional use permit and in areas where the character of the street and general landscaping will not be adversely affected. (Prior code § 9-17-7)

Chapter 17.56 NONCONFORMING BUILDINGS AND USES

Sections:

17.56.010 Maintenance permitted.

A nonconforming building may be maintained. (Prior code § 9-16-1)

17.56.020 Repairs and alterations.

Repairs and structural alterations may be made to a nonconforming building or to a building housing a nonconforming use. (Prior code § 9-16-2)

17.56.030 Additions, enlargements and moving.

A. A building or structure occupied by a nonconforming use and a building or structure nonconforming as to height, area or yard requirements shall not be added to or enlarged in any manner, or moved to another location on the lot except as provided by subsection (B)(1) of this section.

B. A building or structure occupied by a nonconforming use or a building or structure nonconforming as to height, area or yard regulations may be added to or enlarged or moved to a new location on the lot upon a permit authorized by the planning commission, which may issue, provided that the commission, after public hearing, shall find:

    1. That the addition or enlargement of or moving of the building will be in harmony with one or more of the purposes of this title;

    2. That the proposed change does not impose any unreasonable burden upon the lands located in the vicinity of the non-conforming use or structure nor does it violate the development policies adopted in the master plan of the city. (Prior code § 9-16-3)

17.56.040 Alteration when parking insufficient.

A building or structure lacking sufficient automobile parking space in connection therewith as required by this title may be altered or enlarged, provided additional automobile parking space is supplied to meet the requirements of this title for such alteration or enlargement. (Prior code § 9-16-4)

17.56.050 Restoration of damaged buildings.

A nonconforming building or structure or a building or structure occupied by a nonconforming use which is damaged or is destroyed by fire, flood, wind, earthquake or other calamity or act of God, or the public enemy, may be restored. The occupancy or use of such building, structure or part thereof, which existed at the time of such damage or destruction may be continued or resumed; provided, that such restoration is started within a period of one year and is diligently prosecuted to completion in conformance with the ordinances of the city within two years. (Prior code § 9-16-5)

17.56.060 Continuance of nonconforming use--Limitations.

A building used for a lawful and allowable use prior to the effective date of this zoning code, but which, after the effective date of said code, is nonconforming, may continue to be utilized for such nonconforming use unless the building is vacated or the use ceased for a continuous period in excess of three hundred sixty-five (365) calendar days. Land used for a lawful and allowable use prior to the effective date of this zoning code, but which, after the effective date of said code, is nonconforming may continue to be so used provided that such nonconforming use is not ceased for a continuous period in excess of three hundred sixty-five (365) calendar days. No such non-conforming use of land may in any way be expanded or extended, either in the same or on adjoining property, except as provided under Section 17.56.030. (Prior code § 9-16-6)

17.56.070 Effect of vacating a nonconforming building or ceasing a nonconforming use.

A vacant building may be occupied by a use for which the building or structure was used, designed or intended, if so occupied within a period of three hundred sixty-five (365) calendar days after the use became non-conforming.

However, a building or portion thereof occupied by a nonconforming use which is, or hereafter becomes, vacant and remains unoccupied by said nonconforming use for a continuous period in excess of three hundred sixty-five (365) calendar days, shall not thereafter be occupied except by a use which conforms to the use regulations of the district in which it is located.

Should a nonconforming use of land be ceased for a period in excess of three hundred sixtyfive (365) calendar days, any future use of such land shall be in conformity with the provisions of this title, and the previously authorized nonconforming use is expressly prohibited. (Prior code § 9-16-7)

17.56.080 Continuation of pre-existing nonconforming use permitted.

The occupancy of a building or use of land by a nonconforming use, existing on the effective date of the Revised Ordinances of West Bountiful 1965, and constituting a non-conforming use under the provisions of this title may be continued. (Prior code § 9-16-8)

17.56.090 Effect of change of use.

The nonconforming use of a building or structure may not be changed except to a conforming use; but when such change is made, the use shall not thereafter be changed back to a nonconforming use. (Prior code § 9-16-9)

17.56.100 Expansion permitted--Limitations.

A nonconforming use may be extended to include the entire floor area of the existing building in which it is conducted at the time the use became nonconforming. (Prior code § 9-16-10)

17.56.110 Nonconforming mobile home units.

If a nonconforming mobile home is removed from the premises, it cannot thereafter be returned, except that:

A. If such removal was upon order of the building inspector for correction of deficiencies or by decision of the owner for the purpose of correcting deficiencies within sixty (60) days; or

B. A new mobile home may be moved on the premises if:

    1. Accomplished within sixty (60) days;

    2. The restored or new mobile home is owned by the same owner as the mobile home removed; and

    3. The mobile home is occupied for a continuous period of at least six months by the same occupant(s) as the mobile home removed. (Prior code § 9-16-11)

Chapter 17.60 CONDITIONAL USES

Sections:

17.60.010 Purpose and intent.

The purpose and intent of this chapter is to promote the health, safety, convenience and general welfare of the inhabitants of the city. This chapter accomplishes this by providing sufficient flexibility to allow in certain areas compatible integration of uses which are related to the permitted uses of the district or are of a temporary nature only, but which may be suitable only in certain locations and/or under certain development conditions. (Prior code § 9-18-1)

17.60.020 Conditional use permit--When required.

A conditional use permit shall be required for all uses classified as conditional in this title. (Prior code § 9-18-2)

17.60.030 Affirmative findings for issuance of permit.

A. Conditional uses may be approved by the planning commission in districts permitting such uses in this title. Before approval of such a use is granted, a report to the city council by the planning commission shall find that the proposed development will meet the requirements of this title.

B. Public Hearings. A public hearing may be held on the conditional use application when deemed by the planning commission to be in the public interest. However, in the following instances the holding of a public hearing shall be mandatory:

1. The planning commission determines that existing streets and thoroughfares are not suitable and adequate to carry anticipated traffic, and increased densities resulting from the proposed use may generate traffic in such amounts as to overload the street network outside the district;

2. The planning commission determines that increases in miscellaneous traffic, light, odor or environmental pollution generated by the proposed use may significantly change the intended characteristics of the district as outlined in this title;

3. The planning commission determines that the architectural design of the proposed use varies significantly from the architectural characteristics of the district, as outlined in this title, in which such use is proposed.

C. Exceptions.

1. The planning commission may authorize exceptions to any of the requirements and regulations related to conditional uses. Application for any exception shall be made by a verified petition of the applicant. The petition shall state fully the grounds of the application and the facts relied upon by the petitioner. Such petition shall be filed with the conditional use permit application. In order for the land referred to in the petition to come within the provisions of this section, the planning commission shall find all of the following facts with respect thereto:

a. That the land is of such shape or size, or is affected by such physical conditions, or is subject to such title limitations of record that it is impossible or impractical for the developer to comply with all of the regulations of this title;

b. That the exception is necessary for the preservation and enjoyment of a substantial property right by the petitioner; and

c. That the granting of the extension will not be detrimental to the public welfare or injurious to other property in the vicinity of the subject property.

2. Each proposed exception shall be referred to the officers or agencies involved, and such officers or departments shall transmit to the planning commission their recommendations, which recommendations shall be reviewed prior to the granting of any exceptions.

3. The planning commission shall hold a public hearing on the proposed exception, after which it may approve the conditional use permit application with the exceptions and conditions it deems necessary, or it may disapprove such conditional use permit application. Any such approval or disapproval shall be accompanied by written findings of fact and conclusions. (Prior code § 9-18-3)

17.60.040 Determination to issue conditional use permit.

A. A conditional use permit shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with the applicable standards.

B. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.

C. Standards applicable to conditional uses include all the requirements of this chapter, and consideration of the following:

1. The proposed use at the particular location is necessary or desirable to provide a service or facility that will contribute to the general well-being of the neighborhood and the community;

2. The proposed use, under the circumstances of the particular case, will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity;

3. The proposed use and/or accompanying improvements shall not inordinately impact schools, utilities and streets, and shall stress the following criteria; Appropriate buffering of uses and buildings, proper parking and traffic circulation, the use of building materials and landscaping which are in harmony with the area, and compatibility with adjoining uses.

4. The proposed use will comply with the regulations and conditions specified in the zoning ordinance for such use;

5. The proposed use will conform to the intent of the city general plan; and

6. The conditions imposed incident to issuance of the conditional use permit will be complied with.

7. The applicant, at his or her cost, shall provide any report and/or study relating to utilities, traffic impact, school impact, soil and water impact, existing conditions, line-of-sight and building massing, and any other information requested by the City in order to render a proper decision.

17.60.050 General inspection.

Following the issuance of a conditional use permit by the planning commission, the building inspector shall inspect such use to insure that development is undertaken and completed in compliance with the conditional use permit. (Prior code § 9-18-5)

17.60.060 General and performance standards for conditional uses and conditional use developments.

Applicants for conditional use permits shall meet all specific requirements of the city land development and zoning codes, including those set forth in the subdivision ordinance and the city's development standards and specifications, as they apply to the zone in which the use for which the permit is requested shall be developed. The planning commission may establish additional requirements related to the health, safety and welfare of area residents. (Prior code § 9-18-6)

17.60.070 Expiration of permit.

A. Every conditional use permit shall expire and become null and void if the work authorized by the permit has not been commenced within one hundred eighty (180) days, or is not completed within one year from date of issuance. However, the zoning administrator may, if the permit holder presents

satisfactory evidence that unusual difficulties have prevented work being started or completed within the specified time limits, grant a reasonable extension of time if written application is made before the expiration date of the permit.

B. A conditional use permit for uses which are of a temporary nature only may be issued for the intended duration of the temporary use or for two years, whichever period of time is shorter. (Prior code § 9-18-7)

17.60.080 Revocation of permit.

A. In the event any person holding a conditional use permit pursuant to this chapter violates the terms of the permit, or conducts or carries on site development in such a manner as to materially adversely affect the health, welfare or safety of persons residing or working in the neighborhood of the property of the permittee, a temporary suspension may be made effective immediately upon notification by the zoning administrator.

B. No conditional use permit shall be permanently revoked or suspended until a hearing is held by the planning commission. The permittee shall be notified in writing of such hearing and the grounds for its convening.

Such notices shall be served by registered mail or personal service on the permittee at least five days prior to the date set for the hearing. At any such hearing, the permittee shall be given an opportunity to be heard, and he may call witnesses and present evidence on his behalf. Upon conclusion of the hearing, the planning commission shall determine whether the permit shall be suspended or revoked. In the event the determination is to suspend or revoke the permit, the permittee may appeal the decision to the city council in the manner provided in Section 16.24.020. (Prior code § 9-18-8)

(17.60 Amended March 4th, 2008; Ord. 300-08)

Chapter 17.64 SEXUALLY ORIENTED BUSINESSES

Sections:

17.64.010 Purpose.

The purpose and objective of this chapter is to establish reasonable and uniform regulations to prevent the concentration of sexually-oriented businesses or their location in areas deleterious to the city, regulate the signage of such businesses, control the adverse effects of such signage, and prevent inappropriate exposure of such businesses to the community. This chapter is to be construed as a regulation of time, place and manner of the operation of these businesses, consistent with the United States and Utah Constitutions. (Ord. 246-97 (part): prior code § 5-7-1)

17.64.020 Location of businesses--Restrictions.

A. Outcall services shall be permitted in areas zoned L-I (light industria1).

B. Sexually-oriented businesses, except outcall services, shall only be permitted in areas zoned L-I (light industrial) subject to the following additional restrictions:

   No sexually-oriented business shall be located:

   1. Within one thousand (1,000) feet of any school, public park, library or religious institution;

   2. Within six hundred (600) feet of any residential use or any agricultural or residential zoning boundary;

   3. Within six hundred (600) feet of any other sexually-oriented business, except outcall services;

   4. Within three hundred fifty (350) feet of any gateway corridor. The distance shall be measured from the right-of-way boundary.

C. Distance requirements between structures and uses specified in this section shall be measured in a straight line, without regard to intervening structures or zoning districts, from the property boundaries of the school, public park, religious or cultural activity, residential use, or other sexually-oriented business, or from the right-of-way line of a gateway to the structure of the sexually-oriented business.

D. Distance requirements from zoning districts for this section shall be measured in a straight line, without regard to intervening structures or zoning districts, from the closest zoning boundary of a residential or agricultural district to the sexually-oriented business structure. (Ord. 246-97 (part): prior code § 5-7-2)

17.64.030 Effect on nonconforming businesses.

All existing legal, nonconforming sexually-oriented businesses, as of the effective date of the ordinance codified in this chapter, or any amendment hereto, shall comply with the provisions of this chapter within nine months from the date said ordinance is enacted. (Ord. 246-97 (part): prior code § 5-7-3)

17.64.040 Signs.

Notwithstanding anything contrary contained in Chapter 17.48, the more restrictive requirements for signs shall prevail. Signs for sexually-oriented businesses shall be limited as follows:

A. No more than one exterior sign shall be allowed.

B. No sign shall be allowed to exceed eighteen (18) square feet.

C. No animation shall be permitted on or around any sign or on the exterior walls or roof of such premises.

D. No descriptive art or designs depicting any activity related to or inferring the nature of the business shall be allowed on any sign. Signs shall contain alphanumeric copy only.

E. Only flat wall signs and/or awning signs shall be permitted.

F. Painted wall advertising shall not be allowed.

G. Other than the signs specifically allowed by this chapter, the sexually-oriented business shall not attach, construct or allow to be attached or constructed any temporary sign, banner, light or other device designed to draw attention to the business location. (Ord. 246-97 (part): prior code § 5-7-4)

17.64.050 Definitions.

Terms involving sexually-oriented businesses which are not defined in this title shall have the meanings set forth in Section 5.20.040. (Ord. 246-97 (part): prior code § 5-7-5)

Chapter 17.68 Planned Unit Development (PUD)

17.68.010 Purpose and Intent.

A Planned Unit Development ("PUD") is a residential development planned as a whole, single complex. It incorporates a definite development theme which includes the elements of usable open spaces, diversity of lot design or residential use, amenities, a well planned circulation system, and attractive entrances as part of the design.

Planned Unit Developments should be designed to encourage and provide means for effecting desirable and quality development which permit greater flexibility and design freedom than permitted under the basic zoning regulations, and to accomplish a well-balanced, aesthetically satisfying city and economically desirable development of building sites within the development. These developments are intended to permit and encourage diversification, variation and imagination in the relationship of uses, structures, open spaces and heights of structures for developments conceived and implemented as comprehensive and cohesive unified projects. They are further intended to encourage more rational and economic development with relationship to public services, and to encourage and facilitate the preservation of open lands.

West Bountiful City supports development that is creative and serves a purpose beyond the division of land. Planned Unit Developments should be of benefit to the City as well as the residents of the development. The purpose of a Planned Unit Development is not to increase density, but to increase the quality of life in the community. In order to increase the quality of life in West Bountiful City, the City is willing to allow clustering or additional density of dwelling units in exchange for appropriate amenities. Regulations are established to permit latitude in the development of the building site if such development is found to be in accordance with the purpose, spirit and intent of this Chapter and is found not to be hazardous, harmful, offensive or otherwise adverse to the environment, property values, the character of the neighborhood, or the health, safety and welfare of the community.

The owner, or authorized agent, of a proposed Planned Unit Development shall apply for and secure approval of the proposed PUD in accordance with this Chapter before any contract is made for the sale of any part of

the PUD, and before any permit for the erection of a structure in the PUD is granted,. The requirements of this PUD Chapter are intended to be in addition to the other requirements of this Title, not to take the place of such regulations.

A Planned Unit Development may be allowed at the discretion of the City Council following a recommendation of the Planning Commission in any agricultural or residential zone. An application for approval of a PUD is a request by the applicant for additional density and flexibility than that allowed by the underlying zoning. An applicant will not be denied the right to develop property in the traditional manner by satisfying all of the requirements of Title 16 and all other chapters of this Title. Denial of a PUD shall not result in a takings claim against the City because no applicant shall be denied the right to develop property by satisfying all of the requirements of Title 16 and all other chapters of this Title. The City Council need not provide detailed findings or reasons for denial of a PUD since its decision is legislative.

The intent of this Chapter is to allow and encourage a flexible, efficient and imaginative development pattern. Planned Unit Developments can:

A. Provide flexible development options where a standard lot pattern is not practical or desirable due to physical constraints.
B. Promote attractive architectural design, creative lot configuration, provide open spaces, and ensure efficient delivery of services.
C. Promote usable public and private recreation areas, parks, trails and open space with assurance of maintenance.
D. Reduce development costs and ongoing maintenance costs.

Any development that satisfies the requirements of this Chapter may be considered for approval as a PUD regardless of whether the requirements of Title 16, Subdivisions, and the other requirements of Title 17, Zoning, are satisfied. In the case of conflicting requirements of this Chapter and Title 16, Subdivisions, and Title 17, Zoning, this Chapter shall govern.

There will be a presumption against approval of land development as a Planned Unit Development. The applicant bears the sole responsibility and burden of establishing, by a preponderance of the evidence presented, that the alternative development layout and other features of the proposed PUD, taken as a whole, are preferable to a traditional subdivision approved in accordance with Title 16 and all other requirements of this Title. Such preferability may be demonstrated, in part, by a showing that the proposed PUD is in accordance with the purpose, spirit and intent of this Chapter and is not hazardous, harmful, offensive or otherwise adverse to the environment, property values, the character of the neighborhood, or the health, safety and welfare of the community.

17.68.020 Development Description.

A Planned Unit Development is a development containing residential lots, pads, or units in which some of the parcels may be reduced below the minimum lot size required by the zoning district. The regulations of the underlying zone may be negotiated and modified to allow flexibility and initiative in site and building design and location, in accordance with an approved PUD plan and requirements of this Chapter. Projects are

planned to achieve a coordinated, functional and unified development pattern. A PUD allows greater flexibility in project layout while assuring that the character of the underlying district is maintained and the requirements of the Design Guidelines and Standard Specifications are satisfied. Applicants may be eligible for a density bonus based on provision of additional amenities in the development (see Section 17.68.120 for more). Planned Unit Developments are allowed in all residential zones of West Bountiful City.

Because the lot sizes in a PUD are flexible, a building footprint shall be indicated on each lot, identifying the buildable area of the lot and the required setback area for the lot. The City Council may require the buildable area of the lots to be increased if it is determined that an average size dwelling, in comparison with other dwellings in the general vicinity, cannot be constructed on the proposed lots.

Although flexibility in lot arrangement is a feature of a PUD, the lots in the development will be reviewed to ensure that the lots can be used for their intended purpose. Each lot should accommodate a dwelling compatible with other dwellings in the development and access should be provided in a reasonable manner. Lots in a PUD should not be designed in a manner that creates odd-shaped lots and in particular to simply obtain additional lots.

17.68.030 Approval.

Planned Unit Developments may be allowed in any agricultural or residential zoning district upon Planning Commission and City Council approval. No Planned Unit Development permit shall be granted unless the development meets the use limitations of the zoning district in which it is located and meets the density and other limitations of such districts, except as such requirements may be modified by this Chapter. Compliance with the regulations of this Chapter in no way excuses the developer from the applicable requirements of Title 16 and the other requirements of this Title, except as modifications thereof are specifically authorized in the approval of the application for the Planned Unit Development.

17.68.040 Base Density.

The base density for each Planned Unit Development is calculated by multiplying the units per acre allowed in the zone in which the proposed development is located by the total number of acres in the proposed project (the **"Base Density"**). The number of units allowed for the purpose of determining the Base Density of a proposed Planned Unit Development in each residential zone of West Bountiful City are as follows:

Zone	Units Per Acre Allowed
A-1	1 (net acreage)
R-1-22	2 (one unit per one-half acre) (net acreage)
R-1-10	4.356 (one unit per 10,000 square feet) (net acreage)

An applicant may present a flexible project layout for consideration by the City based on the Base Density described above. An applicant may also be eligible for a density bonus as described in Section 17.68.110.

17.68.050 Area.

No Planned Unit Development shall have an area less than that approved by the Planning Commission as adequate for the proposed development, and in no case less than the minimum area requirements of Section 17.68.100.A.

17.68.060 Uses.

A Planned Unit Development which will contain uses not permitted in the zoning district in which it is to be located will require a change of zoning district and must be accompanied by an application for a zoning amendment.

Where a site is situated in more than one use district, the permitted uses applicable to such property in one district may be extended into the adjacent use districts.

17.68.070 Ownership.

The development shall be in single or corporate ownership at the time of application, or the subject of an application filed jointly by all owners of the property.

17.68.080 Desirability.

The proposed use of the particular location shall be shown as necessary or desirable, to provide a service or facility that will contribute to the general well being of the surrounding area. It shall also be shown that under the circumstances of the particular case, the proposed use will not be detrimental to the health, safety or general welfare of persons residing in the vicinity of the Planned Unit Development.

17.68.090 Design.

The Planning Commission shall require such arrangements of structures and open spaces within the site development plan as necessary to ensure that adjacent properties will not be adversely affected.

A. Density. Density of land use shall in no case be more than thirty-five (35) percent higher than allowed in the zoning district.

B. Arrangement. Where feasible, the least height and density of buildings and uses shall be arranged around the boundaries of the development.

C. Specific regulations. Lot area, width, yard, height, density and coverage regulations shall be determined by approval of the site development plan.

17.68.100 Minimum Standards.

A. **General Regulations**. A minimum of seven (7) acres of land in the A-1 zone, and four (4) acres in the R-1-22 and R-1-10 zone is required for a proposal to be developed as a PUD.

B. **Open spaces**. Preservation, maintenance and ownership of required open spaces within the development shall be accomplished by either:

1. Dedication of land as a public park or parkway system; or
2. Creation of a permanent, open space easement on and over private open spaces to guarantee that the open space remain perpetually as open space or as an agricultural or recreational use, as the case may be, with ownership and maintenance being the responsibility of a corporation or other association established with articles of association and bylaws or similar rules, which are satisfactory to the Planning Commission.

The open space may be used to provide amenities in the development. Maintenance of the open space is the responsibility of the owner of the development, if held in single ownership, or a residential corporation or other association, if the dwelling units are sold separately, unless dedicated to the City and accepted by the City Council.

As part of the application for a Planned Unit Development, the applicant shall submit a detailed improvement plan indicating the landscaping, trails, facilities, and other amenities proposed in the development. Upon approval of the amenities package by the City Council, the applicant will be required to complete all improvements in accordance with the development approval. Furthermore, if any open space area is anticipated to be dedicated to West Bountiful City, the landscaping materials, sprinkling system and other improvements shall be completed in accordance with any design or improvement standards adopted by West Bountiful City.

C. **Parking** – Garages and Parking Lots. Each dwelling unit in a Planned Unit Development shall include at least a two (2) car garage constructed in accordance with West Bountiful City building standards. In addition, every PUD shall provide for adequate offstreet parking of vehicles, including recreational vehicle parking.

All parking spaces, parking areas, and driveways shall be hard surfaced and properly drained. Large expanses of asphalt should be reduced and broken into smaller parking lots. Parking lots should include ample landscaping to buffer cars from neighboring properties.

D. **Attractive Elevations** – Variety and Architecture. Structures in the Planned Unit Development must include, at a minimum, the following design elements:

1. A variety of elevations, roof types (e.g., mansard, hip, gabled, traditional), colors, materials, and other architectural features must be incorporated into the housing units so as to eliminate or greatly reduce the impression of tract housing.

2. Garage doors must not be the most prominent feature of the structure. Side entry garages that do not face public streets, garage doors that are recessed from the front of the structure, or other creative solutions are highly encouraged.

3. Dwellings with the same or similar elevations (façade, exterior design, or appearance) must not be placed adjacent to each other or across the street from dwellings with the same or similar elevations except when the Planning Commission for good cause approves limited variation in the Planned Unit Development.

4. Any proposed nonresidential structures should be complementary to the surrounding and historic architecture in terms of scale, massing, roof shape, exterior materials, etc. Such structures should not create masses out of proportion to the residential structures in the development and surrounding neighborhoods, but should be scaled down into groupings of smaller attached structures.

Failure to incorporate these minimum design standards into the proposed structures in the development may result in denial of the request for a Planned Unit Development.

E. **Upgraded Materials**. The materials used to construct the structures in a Planned Unit Development will represent an upgrade from typical construction practices. At a minimum, all residential structures within a Planned Unit Development will include at least eighty (80) percent hard surface exterior materials defined as brick, stucco, stone, stacked stone, simulated wood concrete siding, or similar materials. The applicant must present samples of proposed materials to the Planning Commission for review in connection with approval of the PUD.

F. **Vehicular and Pedestrian Access**. Adequate vehicular and pedestrian access must be provided. A traffic impact study shall be required, as part of the preliminary PUD plan, to project auto and truck traffic generated by the uses proposed. The traffic impact study must be prepared by a registered traffic engineer, unless otherwise expressly waived by the Planning Commission. The traffic study shall include an analysis of on-site circulation, capacities of existing streets, number of additional trips which will be generated, origin/destination studies and peak traffic generation movements.

G. **Connection with Trails.** Any Planned Unit Development that is traversed by or connected to a city trail will be required to install the trail consistent with all applicable ordinances and improvement standards of West Bountiful City.

H. **Signage**. Signage for any nonresidential buildings within the PUD should be part of a coordinated signage system for the entire PUD project. Signage should help unify the project and provide a positive image. Natural materials such as wood, stone, rock, and metal with external illumination are encouraged. The size, location, design and nature of signs, if any, and the intensity and direction of area or floodlighting shall be detailed in the application. The size and location of signage shall conform to the requirements and guidelines for monument signage from Chapter 17.48 of this Title.

I. **General Contributions**. The Planning Commission, as part of the approval of a PUD, shall be permitted to require an applicant to make reasonable contributions to include, but not limited to any combination of the following:

1. Dedication of land for public park purposes.
2. Dedication of land for public school purposes.
3. Dedication of land for public road right-of-way purposes.
4. Construction of, or addition to, roads servicing the proposed project when such construction or addition is reasonably related to the traffic to be generated.
5. Installation of required traffic safety devices.

6. Preservation of areas containing significant natural, environmental, historic, archeological or similar resources.

17.68.110 Density Bonus Calculation.

An applicant for a Planned Unit Development may be eligible for a density bonus based on amenities provided in the project. Density in excess of the Base Density may be considered for projects which satisfy the requirements of one or more of the density bonus amenities listed below. Each amenity is assigned a potential density bonus figured as a percentage increase in dwelling units. A density bonus shall not exceed thirty-five (35) percent above the Base Density. The maximum allowed density in each zone is indicated in the table below.

Zone	Base Density (Units Per Acre)	Maximum Density with 35% Density Bonus
A-1	1 (net)	1.35 (net)
R-1-22	2 (net)	2.70 (net)
R-1-10	4.356 (net)	5.88 (net)

17.68.120 Amenity Density Bonus.

The Planning Commission may recommend a density bonus for project amenities within a Planned Unit Development, which will be an increase over the Base Density of the applicable zoning district. Amenities for a particular project may vary from those of another project because of project type and market for which the project is being built. Types of amenities may include, but are not limited to, substantial landscaping; public tennis courts; trails; equestrian facilities; recreation facilities, areas and parks; permanent open space; common useable agricultural or farming open spaces; or other similar features. The City shall consider the total project and the proposed amenities, and determine the amount of density bonus, if any, a project may receive. When figuring total project density, the number of dwelling units will always be rounded down to the nearest dwelling unit.

A density bonus shall always be at the option of the Planning Commission. If the Commission determines that a density bonus is not appropriate in a certain area, the bonus will not be given. Additionally, the Commission may limit the number of additional units allowed in a certain project. In no case shall an amenity density bonus result in an increase of more than thirty-five (35) percent above the Base Density.

The following list of amenities shall be considered by the Planning Commission for a density bonus in a Planned Unit Development. Each amenity contains a percentage bonus which a project may receive. If a project receives a density bonus, the Base Density will be multiplied by the percentage attached to the amenity to determine the additional units. In order to determine total project density, the Planning Commission shall add all additional units to the Base Density.

In order to qualify for a density bonus, the amenity shall add value to the project and result in a more desirable project for the community. Developers are expected to provide amenities beyond those found in typical subdivisions in order to receive a bonus.

A. Building and Project Design (0-5%)

The Planning Commission will consider and give comprehensive and critical attention to architectural design and style, including unit types, architectural theme, building materials and colors, fence and wall treatment, solar considerations, project entrances, orientation of buildings to amenities within the development, neighborhood design elements and visual appearance of the development from outside the project.

B. Innovative Site Plan (0-5%)

The Planning Commission will consider an innovative site plan which is in harmony with the topography and other natural features of the site. An innovative site plan could also include a variety of lot sizes, setbacks, dwelling unit types, clustered development patterns, and natural resource protection.

C. Substantial Public Benefit (0-10%)

The Planning Commission will consider this amenity bonus if substantial public benefit through the provision of public facilities (such as park dedication, trail system, or other recreational facilities), that are both unusual in character and serve the needs of an area greater than the immediate development, is provided by the project. No density increase for substantial public benefit may be approved unless the public facilities provided are in excess of the typically required street improvements, sidewalks or trails, public recreational amenities, utilities and drainage facilities.

D. Provision, Protection and Maintenance of Open Space (0-10%)

The Planning Commission will consider the provision, protection and maintenance of permanent common open space or agricultural open space which is distinguishable from a standard subdivision by its quantity or quality. The open space should be readily accessible to the residents of the development, when appropriate. Consideration will be given for innovative clustering designs that maximize open space and preserve the scenic views and beauty of the community. Open space placed in conservation easements in perpetuity will be valued highly in the PUD process. In order to gain a larger density bonus, the developer must provide a plan for the ongoing maintenance of the open space by means of a homeowners association or other entity which does not encumber the City.

E. Interior Amenities and Landscaping (0-5%)

The Planning Commission will consider the provision of private recreational facilities such as tennis courts, equestrian facilities, recreational centers, jogging paths, trails, water features, parks and similar facilities which are accessible to the residents of the development. Additionally, the Commission will

consider overall streetscape, including street and sidewalk treatment, street trees, overall landscaping, signs, graphics, mail boxes, lighting, garage placement, car port screening, and dwelling entrances.

17.68.130 Relationship of PUD to This Title and Other Development Ordinances of West Bountiful City.

This Chapter is intended to be supplementary to the other provisions of this Title. Unless specifically indicated in this Chapter, all requirements of this Title and any and all other development ordinances of West Bountiful City must be satisfied with the following exceptions:

A. The sideyard setback requirements must be consistent with those of the underlying zoning district for all structures within the Planned Unit Development.

B. The frontage and lot area requirements may be allowed to be modified for all lots, pads, or parcels within the Planned Unit Development except those located directly across a public street from a development that satisfies the frontage requirements of Title 17, Zoning.

C. he density of the development shall be equal to the total project density in accordance with Sections 17.68.110 and 17.68.120, whether consistent with the other requirements of Title 17, Zoning , or not.

17.68.140 Phasing.

All residential subdivisions with more than ten (10) lots, pads, parcels, or units shall include a phasing plan that specifies the timing of public improvements and residential construction. This plan must be submitted to the Planning Commission at or before the submission of the Preliminary Plan.

The phasing plan shall include the number of units or parcels to be developed in each phase; the approximate timing of each phase; the timing of construction of public improvements and subdivision amenities to serve each phase, whether onsite or offsite; and the relationship between the public improvements in the Planned Unit Development and contiguous land previously subdivided and yet to be subdivided. A developer may request a revision of the phasing plan, which may be necessary due to conditions such as changing market conditions, inclement weather or other factors.

17.68.150 Landscaping.

Landscaping, fencing and screening regulated to the uses within the site and as a means of integrating the proposed development into its surroundings shall be planned and presented to the Planning Commission for approval, together with other required plans for the development. A planting plan showing proposed tree and shrubbery plantings shall be prepared for the entire site to be developed. A grading and drainage plan shall also be submitted to the Planning Commission with the PUD application.

17.68.160 Guarantees and Covenants.

Adequate guarantees shall be provided for permanent retention and maintenance of all open space areas created, before final plan approval can be granted.

A. Open Space Guarantees: The city shall require the preservation, maintenance and ownership of all open space through one, or a combination of the following:

1. Dedication of the land as a public park or parkway system.

2. Dedication of the land as permanent open space on the recorded plat.

3. Granting the city a permanent open space easement on the private open spaces to guarantee that the open space remain perpetually in recreation or agricultural use, with ownership and maintenance being the responsibility of a residential corporation or association.

4. Through compliance with the provisions of the Condominium Ownership Act, as outlined in Utah Code Annotated, Title 57, as amended, which provides for the payment of common expenses for the upkeep of common areas and facilities.

   In the event the common open space and other facilities are not maintained in a manner consistent with the approved final PUD plan, the city may at its option cause such maintenance to be performed and assess the costs to the affected property owners or responsible corporation or association.

B. Performance Guarantee: In order to ensure that the Planned Unit Development will be constructed to completion in an acceptable manner, the applicant shall post performance guarantees as outlined in the subdivision ordinance. The letter of credit or escrow account shall include the completion of offsite improvements, including, among other things, landscaping, sprinkling or irrigation systems, drives, storm drains, street surfacing, parking areas, sidewalks, curbs and gutters.

C. Covenants, Conditions and Restrictions:

1. The applicant for any Planned Unit Development shall, prior to the conveyance of any unit, submit to the Planning Commission a declaration of covenants, conditions and restrictions relating to the project, which shall become part of the final development plan and shall be recorded to run with the land. The declaration shall include management policies which shall set forth the quality of maintenance that will be performed, and shall specify the party responsible for such maintenance within the development. The declaration shall also contain, at a minimum, the following:

   a. The establishment of a corporation or other association responsible for all maintenance, which shall levy the cost thereof as an assessment to each unit owner within the development.

   b. The establishment of a management committee, with provisions setting forth the number of persons constituting the committee, the method of selection, and the powers and duties of the committee; and including the person or entity with property management expertise and experience who shall be designated to manage the maintenance of the common areas and facilities in an efficient and quality manner.

c. The method of calling a meeting of the members of the corporation or other association, with the members thereof that will constitute a quorum authorized to transact business.

d. The manner of collection from unit owners for their share of common expenses, and the method of assessment.

e. The establishment of an initial reserve fund for the corporation or other association, to adequately cover maintenance and operation expenses until such time as the corporation or association is fully operational and self-sustaining.

f. Provisions as to percentage of votes by unit owners which shall be necessary to determine whether to rebuild, repair and restore or sell property in the event of damage or destruction of all or part of the project.

g. The method and procedure by which the declaration may be amended.

2. The declaration required herein, amendments, and any instrument affecting the property or any unit therein, are subject to approval by the City Attorney and the Planning Commission and must be recorded with the County Recorder.

17.68.170 Considerations.

In carrying out the intent of this Chapter, the Planning Commission shall consider the following principles:

A. It is the intent of this Chapter that site and building plans for a PUD shall be prepared by a designer or team of designers having professional competence in urban planning as proposed in the application. The Commission shall be permitted to require the applicant to engage such professional expertise as a qualified designer or design team.
B. It is not the intent of this Chapter that control of the design of a PUD by the Planning Commission be so rigidly exercised that individual initiative be stifled and substantial additional expense incurred; rather, it is the intent of this Chapter that the control exercised be the minimum necessary to achieve the purposes of this Chapter.
C. The Planning Commission shall be authorized to recommend approval of, or deny, an application for PUD. The City Council shall be authorized to grant final approval or denial of an application for a PUD.

In the recommendation for approval or in the final approval, the Planning Commission and City Council shall be permitted to attach such conditions as they deem necessary to secure compliance with the purposes set forth in this Chapter. The denial of an application for a PUD by the Planning Commission may be appealed to the West Bountiful City Council in accordance with applicable law.

17.68.180 Approval.

The Planning Commission shall have the authority to require that the following conditions for a Planned Unit Development (among others it deems appropriate) be met by the applicant:

A. That construction starts within 1 year of either the approval of the project or of any necessary zoning district change, whichever occurs last; and that the construction, or approved stages thereof, be completed within 4 years after the date construction begins.
B. That the development be planned as one complex land use rather than as an aggregation of individual and unrelated buildings and uses.

17.68.190 Limitations on application.

A. Upon approval of a PUD, construction shall proceed only in accordance with the plans and specifications approved by the City Council and in conformity with any conditions attached by the Council as to its approval.
B. Amendment to approved plans and specifications for a PUD shall be obtained only by following the procedures here outlined for first approval.
C. The code official shall not issue any permit for any proposed building, structure or use within the project unless such building, structure or use is in accordance with the approved development plan and with any conditions imposed in conjunction with its approval.

(17.68 Amended October 7, 2008; Ord. 303-08)

Chapter 17.72 MOBILEHOME PARKS AND MOBILEHOME SUBDIVISIONS

Sections:

17.72.010 Purpose and intent.

The purposes and intent of this chapter are:

A. To permit variety and flexibility in land development for residential purposes by allowing the use of mobilehomes under certain conditions; and

B. To require that mobilehome developments be of such character as to promote the objectives and purposes of this title; to protect the integrity and characteristics of the district contiguous to those in which mobilehome parks are located; and to protect other land use values contiguous to or near mobilehome developments. (Prior code § 9-20-1)

17.72.020 Standards and requirements.

A. The planning commission shall review the proposed development plan to determine its compliance with all portions of the city's master plan and, among other things, shall attempt to make sure that such development will constitute a residential environment of sustained desirability and stability and that it will not adversely affect amenities in the surrounding area.

Standards higher than the minimum standards contained in this title may be required if necessary for local conditions of health, safety and protection of property, and to insure that the development will mix harmoniously with contiguous and nearby existing and planned uses.

B. The planning commission shall not approve any application for a mobilehome park or mobilehome conditional use permit if the developer cannot provide required water supplies and facilities, waste disposal systems, storm drainage facilities, access or improvements. Nor shall such a permit be granted if the developer cannot assure that the development will be completed in a reasonable time, or if the planning commission or city council determines there would be unusual danger of flood, fire or other hazard. Nor shall such a permit be granted if the proposed development would be of such character or in such a location that it would:

1. Create excessive costs for public services and facilities;

2. Endanger the health or safety of the public;

3. Unreasonably hurt or destroy the environment;

4. Cause excessive air or water pollution, or soil erosion; or

5. Be inconsistent with any adopted general or specific plan of the area in which it is to be placed.

C. The development shall conform to the following standards and requirements, unless modified by an approved planned unit development plan:

1. The area shall be in one ownership, or if in several, the application for approval of the development shall be filed jointly by all owners of the property included in the plan.

2. A strip of land at least fifteen (15) feet wide surrounding the entire park shall be left unoccupied, and shall be planted and maintained in lawn, shrubs and/or trees, with an approved wall or fence designed to afford privacy to the development.

3. All storage and solid waste receptacles outside the confines of any mobilehome shall be housed in a closed structure compatible in design and construction to the mobilehomes, and to any service buildings within the development; all patios, carports, garages and other add-ons shall be compatible in design and construction with the mobilehome. All service buildings shall be constructed in accordance with standard commercial practice and kept in good repair as determined by the zoning administrator.

4. All mobilehome parks and mobilehome subdivisions shall also conform to all applicable state regulations. In the event of any conflict between the regulations and this chapter, this

chapter shall take precedence when its regulations are more strict, and the provisions of the state regulations shall take precedence when such regulations are more strict.

D. Every mobilehome park and mobilehome subdivision shall provide underground utility service to every mobilehome lot as required by the planning commission, including, but not limited to, water, sewer, power and television.

E. Inspection and Special Regulation of Mobilehomes. Mobilehomes are considered by the city to be less durable and less resistant to deterioration than are conventional homes. Therefore, all mobilehomes which are used for human habitation, whether conforming or non-conforming, and whether located in mobilehome parks, in mobilehome subdivisions or bona fide farms or ranches, shall be subject to the following special regulations:

1. Permits are required for mobilehome plumbing and electrical hookups, and such hookups shall be made only by licensed plumbers and electricians.

2. No mobilehome may be placed on a permanent foundation without state-approved modification.

3. No modular home or mobilehome shall be moved into or within the city without a HUD certification for compliance with the National Home Construction and Safety Standards Act of 1974. Homes manufactured prior to June 15, 1976, must receive a certificate of compliance from the state prior to being moved into or within the city.

4. Each mobilehome within the city may be inspected annually, or upon evidence of need, by the building inspector, to determine whether the structure is sound and being kept in a safe and sanitary condition for human habitation. During the inspection, the building inspector shall determine whether the mobilehome is being maintained in violation of the fire or sanitary codes adopted by the city, whether substantial deterioration of the structure exists so as to adversely affect the health or safety of the occupants, or whether there has been such deterioration in appearance as to render the mobilehome unsightly and to adversely affect the value of neighboring properties.

5. Upon a finding of noncompliance, the building inspector shall order the deficiencies corrected and a certificate of compliance obtained within thirty (30) days.

6. If such deficiencies are not corrected, or cannot be corrected, the mobilehome shall be ordered vacated and removed from the premises, and shall not thereafter be used for human habitation within the city unless all deficiencies are corrected and a certificate of compliance obtained.

F. Compliance with Other Regulations. Any mobilehome located in any permitted area shall comply with and conform to all other zoning laws, rules, regulations and building, plumbing, electrical, fire prevention, and all other codes and requirements applicable to a structure or building erected within the district in which the mobilehome is located.

G. Guarantees.

1. For mobilehome parks, adequate and reasonable guarantees must be provided as determined by the planning commission for permanent retention of open spaces and for the maintenance of roadways, storage facilities, service facilities, and landscaping resulting from the application of these regulations. Guarantees may be in the form of a bond, or a mortgage on real estate, in a sum to be determined by the planning commission, and in a form which must be approved by the city council and the city attorney.

2. In any case, when a mobilehome park is owned by more than one person, the developer shall establish and appoint a park manager. The manager shall be authorized to receive, process and represent fully the interests of the owners in respect to the continuing management and maintenance of the park.

3. The obtaining of an annual business license from the city shall be a prerequisite to the operation of any mobilehome park in the city.

4. In the event a mobilehome is not completed according to approved plans, the annual business license shall be denied, the mobilehomes and associated property and facilities shall be removed, and all services shall be discontinued before any part of the land within the development planning area may be used for any other purpose, or be subdivided. (Prior code § 9-20-2)

17.72.030 Additional requirements for mobilehome parks.

In addition to the requirements for mobilehome parks set forth in Section 17.72.020, mobilehome parks shall meet all of the following requirements:

A. The number of mobilehomes shall be limited to ten (10) units per acre and may be limited to fewer units, depending on mobilehome size, topography and other factors of the particular site. The mobilehomes may be clustered; provided, that the total number of units does not exceed the number permitted on one acre, multiplied by the number of acres in the development. The remaining land not contained in individual lots, roads, or parking shall be set aside and developed as parks, playgrounds and service areas for the common use and enjoyment of occupants of the development, and visitors thereto.

B. No home or add-on shall be located closer than twenty (20) feet from the nearest portion of any other home or add-on. All such homes and add-ons shall be set back at least ten (10) feet from road curbs or walks. If the mobilehome tongue remains attached, it shall be set back a minimum of six feet from road curbs or walks. All mobilehomes shall be set back at least fifteen (15) feet from any boundary of the mobilehome park.

C. Off-street parking shall be provided at the rate of two parking spaces per mobilehome space, and each such parking space shall have a minimum width of ten (10) feet and minimum depth of twenty (20) feet. In no case shall the parking space be located farther than one hundred (100) feet from the mobilehome space it is designed to serve.

D. A security compound for storage of vehicles, boats and other large items shall be provided equivalent to a minimum of three hundred (300) square feet of paved area per mobilehome space.

E. One-story, bulk storage areas shall be provided within a mobilehome park, equivalent to sixty (60) square feet per mobilehome space. The area designated for bulk storage shall be improved, landscaped and screened in such a manner as approved by the planning commission.

F. Not less than ten (10) percent of the gross land area shall be set aside for the joint use and enjoyment of occupants. The land covered by vehicular roadways, sidewalks and off-street parking shall not be construed as part of this ten (10) percent common area required; provided, however, that in initial stages of development or special smaller developments the minimum area shall be not less than one-half acre or ten (10) percent, whichever is greater.

G. Yard lighting with a minimum of two-tenths foot candles of light shall be required for protective lighting the full length of all driveways and walkways.

H. All areas not covered by mobilehomes or recreational vehicles, hard surfacing, or buildings shall be landscaped as approved by the planning commission, and such landscaping shall be permanently maintained.

I. All off-street parking spaces and driveways shall be hard surfaced before the adjacent spaces may be occupied.

J. All roadways shall be designed to accommodate anticipated traffic, including the following standards, unless modified by an approved planned unit development plan:

1. One-way traffic: a minimum of fifteen (15) feet in width plus extra width as necessary for maneuvering mobilehomes;

2. Two-way traffic: a minimum of thirty (30) feet in width;

3. Entrance roadways: a minimum of thirty-six (36) feet in width;

4. Roadways: hard surfaced and bordered by twenty-four (24) inch rolled gutters or an approved equivalent;

5. Sidewalks: thirty-six (36) inch minimum width sidewalks on all main roadways within the development, if required by the planning commission; and

6. Access: at least two accesses to public streets, unless more than one access is prohibited by a responsible public agency.

K. Within forty-five (45) days of occupancy, each mobilehome shall be skirted, or if shields are used, they are to be fireproof, well painted, or otherwise preserved.

L. Storm drainage facilities shall be so constructed as to protect residents of the development as well as adjacent property owners. Such facilities must be of sufficient capacity to insure rapid drainage and prevent the accumulation of stagnant pools of water in or adjacent to the development.

M. The mobilehome park shall:

1. Be in keeping with the general character of the district in which it is to be located,

2. Be located on a parcel of land not less than ten (10) acres, or on two or more parcels separated by a street or alley only and totaling ten (10) acres, unless modified by an approved planned unit development plan; and

3. Have at least twenty-five (25) spaces completed, ready for occupancy, or an approved financing plan for construction and phase completion, together with approved security to assure compliance, before first occupancy is permitted.

N. A launderette for convenience of park occupants, but not for the general public, may be included in mobilehome parks.

O. No mobilehome space shall be rented for a period of less than thirty (30) days, and occupancy shall be by written lease. Leases shall be made available for inspection by the officials of the city upon demand.

P. Access shall be provided to each mobilehome lot for maneuvering mobilehomes into position. The access way shall be kept free from trees and other immovable obstructions. Paving under mobilehomes will not be required if adequate support is provided as required by state regulations. Use of planks, steel mats, or other means to support the mobilehome during placement shall be allowed, so long as the same are removed upon completion of placement. (Prior code § 9-20-3)

17.72.040 Additional requirements for mobilehome subdivisions.

In addition to the requirements for mobilehome subdivisions outlined above, mobilehome subdivisions shall meet all of the following requirements:

A. Mobilehome subdivisions may be approved by the city council in locations permitting such use in this title. Before such approval may be granted, a report to the city council by the planning commission shall find that the proposed development will:

1. Be located on a parcel of land containing not less than five acres;

2. Contain lots with a minimum net five thousand (5,000) square feet and a minimum width of fifty (50) feet; and

3. Be organized in a homeowners' association, if required by the planning commission.

B. The planning commission may require a security compound for the storage of vehicles, boats, and other large items, to be provided equivalent to a minimum of three hundred (300) square feet of paved area per mobile-home lot, to be maintained by a homeowners' association in the mobilehome subdivision.

C. Each mobilehome shall be skirted or shielded within forty-five (45) days of occupancy. If shields are used, they are to be fireproof and painted, or otherwise preserved.

D. Street widths shall be as required by the subdivision regulations, except as may be modified by an approved planned unit development plan.

E. The planning commission may require the creation of a homeowners' association as a prerequisite to approval of a mobilehome subdivision.

F. No mobilehome in a mobilehome subdivision shall be rented or leased for a period of less than ninety (90) days. (Prior code § 9-20-4)

Chapter 17.76 SWIMMING POOLS AND RECREATIONAL FACILITIES

Chapters:

17.76.010 Definitions.

As used in this chapter:

"**Private swimming pool**" means any constructed pool which is used, or intended to be used, as a swimming pool in connection with a single family residence and available only to the family of the household and private guests.

"**Semi-private swimming pool**" means any constructed pool which is used, or intended to be used, as a swimming pool in connection with a neighborhood recreational facility.

"**Swimming pool**" means any constructed pool used for bathing or swimming which is over twenty-four (24) inches in depth, or with a surface area exceeding two hundred fifty (250) square feet. (Prior code § 9-23-1)

17.76.020 Private pools and use.

Any private or semiprivate swimming pool not completely enclosed within a building having solid walls shall be set back at least ten (10) feet from property lines. Any swimming pool shall be completely surrounded by a fence or wall having a height of at least six feet. There shall be no openings larger than thirty-six (36) square inches, except for gates which shall be equipped with self-closing and self-latching devices. Such gates shall be securely locked when pool is not in use by persons invited by the owner. Private swimming pools will be permitted when they meet the necessary setback requirements. However, there must be no direct connection to the city's culinary water system or to the sewer system of the city. (Prior code § 9-23-2)

17.76.030 Semi-private pools and use.

The planning commission may permit, temporarily or permanently, the use of land in any zoning district for semi-private swimming pools or recreational facilities, provided that in all such cases the following conditions are met:

A. The facilities are to be owned and maintained by the members, and a minimum of seventyfive (75) percent of the membership must be residents of the neighborhood or section of the subdivision in which the recreational facility is to be located.

B. The area to be used for recreational purposes is of sufficient size to accommodate all proposed facilities, together with off-street parking, when required by the planning commission, of sufficient size to satisfy the needs of the area and still maintain a landscaped front yard of not less than thirty (30) feet and a landscaped side yard on both sides and rear of not less than ten (10) feet.

C. The area to be developed into a recreational area must be of such size and shape as to cause no undue infringement on the privacy of the abutting residential areas and be in keeping with the design of the neighborhood in which the recreational area is to be situated.

D. A solid wall or substantial fence shall be required around the entire recreational area to a height of not less than six feet, the fence across the front of the property to be constructed no nearer to the front property line than the required front setback.

E. Electrical.

1. Overhead Conductor Clearances. The following parts of swimming pools shall not be placed under existing service-drop conductors or any other open overhead wiring; nor shall such wiring be installed above the following:

a. Swimming pool and the area extending ten (10) feet horizontally from the inside of the walls of the pool;

b. Diving structures; or

c. Observation stands, towers and platforms.

2. Underground Conductor Clearances.

a. Distribution Lines Over Six Hundred (600) Volts. There shall be a minimum ten (10) feet horizontal separation between the closest edge of pool and lines distributing over six hundred (600) volts of electricity.

b. Service Lines Under Six Hundred (600) Volts. There shall be a minimum five feet horizontal separation between the closest edge of the pool and service lines carrying under six hundred (600) volts of electricity.

F. Under no condition can any charge be made for the use of any of the facilities in the recreational area unless specifically authorized by the planning commission.

G. Under no condition shall any type of retail or business facilities, including vending machines, be permitted in the recreational area except those specifically approved by the planning commission.

H. Club houses or any type of night-time indoor facilities will not be permitted in connection with such recreational and swimming pool facilities.

I. Before authorizing the recreational facility, complete plans for the development of the area must be submitted to the planning commission. In addition, a detailed outline showing how the area is to be financed and maintained shall be submitted. The planning commission may require a bond by the owners to guarantee compliance with the conditions upon which the area is approved. Failure to comply with any of these conditions shall render null and void the commission's authorization of the facility.

J. The planning commission shall notify owners of all abutting properties, and present the proposal at a public meeting, after which the commission shall recommend approval or disapproval of the application.

K. The planning commission will have the authority to place whatever additional conditions or restrictions, including a bond, which it may deem necessary to protect the character of the district and to insure the proper development and maintenance of such a recreational area. These conditions may include requiring that plans be approved which set forth the disposition or re-use of the property if the recreational area is abandoned by the developers or is not maintained in the manner agreed upon. (Prior code § 9-23-3)

Chapter 17.82 ACCESSORY DWELLING UNITS (ADU)

Chapters:

17.82.010 Purpose.

(Ord. 324-11, approved 03/15/2011)

The purpose of this chapter is to establish use and development regulations for accessory dwelling units (ADUs). These regulations are adopted for the following purposes:

A. To accommodate such housing in single family residential neighborhoods, as long as it produces only minimal impacts on the neighborhood in terms of traffic, noise, parking, congestion, and compatible scale and appearance of residential buildings.

B. To prevent the proliferation of rental dwellings, absentee ownership, property disinvestment, building code violations, and associated decline in quality of single-family residential neighborhoods.

C. To establish uniform standards for ADUs.

ADUs are intended to be an exception to the requirement of only single family dwellings in agricultural and residential zoning districts as long as the requirements of this chapter and other provisions of this title are met.

17.82.020 Definition.

An accessory dwelling unit, or ADU, is defined as a separate dwelling unit, within or attached to a single family dwelling, that complies with the provisions of this chapter.

17.82.030 Scope.

The requirements of this chapter shall apply to any ADU within the City. Such requirements shall not be construed to prohibit or limit other applicable provisions of this title, the West Bountiful Municipal Code, and other laws.

17.82.040 Conditional Use.

Any ADU shall conform to the development standards of Section 17.82.050, and shall constitute a conditional use in all residential zones subject to the approval and issuance of a conditional use permit by the Planning Commission.

17.82.050 Development Standards.

The development standards set forth in this section shall apply to any ADU allowed as a conditional use.

A. **Location**. An accessory dwelling unit (ADU) shall be allowed only within or attached to an owner-occupied single family dwelling.

B. **Number of Accessory Dwelling Units.** A maximum of one (1) ADU shall be allowed within or attached to each single family dwelling. No lot or parcel shall contain more than one ADU.

C. **Parking.** Adequate parking shall be made available to accommodate the residential use of an ADU, subject to the residential use parking requirements of Chapter 17.52 of the West Bountiful Municipal Code. A minimum of four (4) off-street parking spaces shall be provided. Parking spaces may include garage and driveway space. At least one (1) space shall be designated for the ADU. Parking stalls shall be paved with concrete, masonry, asphalt, or concrete pavers. Gravel parking stalls or driveways may

be allowed at the discretion of the Zoning Administrator, provided that the structure to be used as an ADU was in existence at the time of adoption of this ordinance, the structure was accessed or served by a gravel driveway and/or parking stalls at the time of adoption of this ordinance, and the surface is sufficient to allow for access by public safety vehicles.

D. **Utility Metering.** No separate utility metering for the ADU shall be allowed, and the utility service shall be in the property owner's name.

E. **Size of Accessory Dwelling Unit.** An ADU shall contain a minimum of 300 square feet; provided, that the dimensions and sizes of living areas, kitchen areas, sleeping areas and bathroom facilities comply with applicable provisions of this title and the current building codes adopted by the City.

F. **Construction Codes**. An ADU shall comply with the construction housing codes in effect at the time the ADU is constructed, created as a separate dwelling, or subsequently remodeled. This shall include the obtaining of a building permit or other permits as the codes may require.

G. **Architecture.** An ADU that is added onto an existing single family dwelling or a new single family dwelling that is designed to accommodate an ADU shall not resemble a multi-family structure in terms of the scattered placement of garage doors, carports, or number or location of outside entries or porches. The architectural design and materials of an addition for an ADU shall match the existing single family dwelling so that the addition appears to be part of the original building.

H. **Owner Occupied.** The owner of the property on which the ADU is located, as listed in the County Recorder's Office, must reside on the property as their principal residence. At no time shall both the ADU and the primary single family dwelling be rented as separate units.

L. **Findings and Impacts.** Before any conditional use permit may be issued for an ADU, the Planning Commission shall make an affirmative finding that the ADU will not create any injurious impacts to surrounding neighbors and/or the neighborhood where the ADU is to be located, and that the ADU otherwise meets the requirements of Chapter 17.60 of this title.

Chapter 17.84 RESIDENTIAL FACILITIES FOR ELDERLY AND DISABLED PERSONS

Sections:

17.84.010 Definitions.

The following definitions shall apply to all sections of the West Bountiful City zoning ordinances and except as provided herein, shall supersede any other definition contained in the city's zoning ordinances (Title 17):

A. An "**adult daycare facility**" means any building or structure furnishing care, supervision, and guidance for three (3) or more adults unaccompanied by guardians for periods of less than twenty-four (24) hours per day.

B. An "**assisted living facility**" is a residential facility, licensed by the State of Utah, with a home like setting that provides an array of coordinated support personnel and healthcare services, available twenty-four (24) hours per day, to residents who have been assessed under the Utah Department of Health or the Utah Department of Human Services rules to need any of these services. Each resident shall have a service plan based on the assessment, which may include:

1. specified services of intermediate nursing care;

2. administration of medication; and

3. support services promoting resident's independence and self sufficiency. Such a facility does not include adult daycare provided in conjunction with a residential facility for elderly persons or a residential facility for persons with a disability.

C. "**Boarder**" means a person living in a rented room in a boarding house. The boarding house operator or member of his or her immediate family, who resides on the premises with the operator, shall not be considered to be a boarder.

D. A "**boarding house**" is a building or a portion thereof where, for compensation, rooms are rented together with meals for not more than fifteen (15) boarders who generally do not directly utilize kitchen facilities. The operator of a boarding house must reside on the premises of the boarding house. The work shall include compensation in money, services, or other things of value. A boarding house does not include a residential facility for disabled persons or a residential facility for the elderly. A boarding house does not include a nonresidential facility, such as a rehabilitation/treatment facility, where the primary purpose of the facility is to deliver rehabilitation, treatment, counseling, medical, protective or other similar services to the occupants.

E. "**Building, Public**." For purposes of this chapter only, a public building is a building owned and operated, or owned and intended to be operated by the city, a public agency of the United States of America, the State of Utah, or any of its political subdivisions. The use of a public building, with immunity, is nontransferable and terminates if the structure is devoted to a use other than as a public

building with immunity. A public building referred to as with immunity under the provisions of this title includes:

1. properties owned by the State of Utah or the United States Government which are outside of the jurisdiction of the city zoning authority as provided under Title 10, Chapter 9a, Section 304, Utah Code Annotated, 1953, as amended; and

2. the ownership or use of a building which is immune from the city zoning authority under the supremacy clause of the United States Constitution.

F. "**Disability**" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such a problem or being regarded as having such an impairment. The following definitions are incorporated into the definition of disability, to wit:

1. disability does not include current illegal use of, or addiction to, any federally controlled substance as defined in Section 102 of the Controlled Substances Act, 21 USC 802, or as defined under Title 58, Chapter 37, Utah Code Annotated, 1953, as amended;

2. a physical or mental impairment includes the following, to wit:

a. Any psychological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular, reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

b. Any mental or physiological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities; or

c. Such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, human immunodeficiency virus (HIV), mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of controlled substances) and alcoholism.

G. "**Domestic staff**" means persons employed or residing on the premises of a dwelling or other residential facility to perform domestic services or to assist residents in performing major life activities.

H. "**Elderly person**" means a person who is sixty (60) years or older, who desires or needs to live with other elderly persons in a group setting, but who is capable of living independently.

I. "**Family**" means one or more persons related by blood, marriage, adoption, or guardianship, or may also include five (5) additional unrelated individuals living with the family, such as domestic staff, living together as a single nonprofit housekeeping unit. "Family" does not exclude the care of foster children.

J. "**Hospital**" means an institution licensed by the State of Utah which provides diagnostic, therapeutic, and rehabilitative services to individuals on both an inpatient and outpatient basis by or under the supervision of one or more physicians. A medical clinic or professional office which offers any inpatient

or overnight care, or operates on a twenty-four (24) hour basis shall be considered to be a hospital. A hospital may include necessary support service facilities such as laboratories, outpatient units and training and central services, together with staff offices necessary to operate the hospital.

K. "**Major life activities**" means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

L. "**Non-Residential Treatment Facility"** is a facility wherein no persons will be housed on an overnight basis, and provides services including rehabilitation, treatment, counseling, or assessment and evaluation services related to delinquent behavior, alcohol abuse, drug abuse, sexual offenders, sexual abuse, or mental health. Associated educational services may also be provided to juvenile occupants.

M. "**Nursing home**" means an intermediate care/nursing facility or a skilled nursing facility licensed by the state of Utah, for the care of individuals who, due to illness, advanced age, disability, or impairment require assistance and/or supervision on a twenty-four (24) hour per day basis. Such a facility does not include an adult daycare facility or adult daycare provider in conjunction with residential facilities for elderly persons or a residential facility for persons with a disability.

N. "**Protective housing facility**" means a facility either: (1) operated, licensed, or contracted by a governmental entity, or (2) operated by a charitable, nonprofit organization, where for no compensation, temporary, protective housing is provided to: (a) abused or neglected children awaiting placement in foster care; (b) pregnant or parenting teens; (c) victims of sexual abuse; or (d) victims of domestic abuse.

O. "**Reasonable accommodation**" means a change in any rule, policy, practice, or service necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling. The following words have the following definitions, to wit:

i. Reasonable. Reasonable means a requested accommodation that will not undermine the legitimate purpose of existing zoning regulations notwithstanding the benefit that the accommodation will provide to a person with a disability.

ii. Necessary. Necessary means the applicant must show that, but for the accommodation one or more persons with a disability likely will be denied an equal opportunity to enjoy the housing of their choice.

iii. Equal Opportunity. Equal opportunity means achieving equal results as between a person with a disability and a non-disabled person.

P. Having a "**record of impairment**" means having a history of, or having been misclassified as having a mental or physical impairment that substantially limits one or more major life activities.

Q. A person is "regarded as having an impairment" when:

1. the person has a physical or mental impairment that does not substantially limit one or more major life activities but is treated by another person as having such a limitation;

2. the person has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others towards such an impairment; or

3. the person has none of the impairments defined in this section but is treated by another person as having such an impairment.

R. "**Rehabilitation/treatment facility**" means a facility licensed or contracted by the State of Utah to provide temporary occupancy and supervision of individuals (adults and/or juveniles) in order to provide rehabilitation, treatment or counseling services. Without limitation, such services may include rehabilitation, treatment, counseling, or assessment and evaluation services related to delinquent behavior, alcohol abuse, drug abuse, sexual offenders, sexual abuse, or mental health. Associated educational services may also be provided to juvenile occupants.

S. "**Related**" by blood, marriage or adoption within the definition of "family" means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild, to include the half as well as the whole blood.

T. "**Residential facility for elderly persons**" means a dwelling unit that is occupied on a twenty-four (24) hour per day basis by eight (8) or fewer elderly persons in a family type arrangement. A residential facility for elderly persons shall not include any of the following, to wit:

1. a facility which is operated as a business; provided that such facility may not be considered to be operated as a business solely because a fee is charged for food or for actual and necessary costs of preparation and maintenance of the facility;

2. a facility where persons being treated for alcoholism or drug abuse are placed; a facility where placement is not on a strictly voluntary basis or where placement is part of, or in lieu of, confinement, rehabilitation, or treatment in a correctional institution; or a facility which is a healthcare facility as defined by Title 26, Chapter 21, Section 2, Utah Code Annotated, 1953, as amended; or a facility which is a residential facility for persons with a disability.

U. "**Residential facility for persons with a disability**" means a residence in which more than one person with a disability resides and which is:

1. licensed or certified by the Department of Human Services under Title 62A, Chapter 2, of the Utah Code, Licensure of Programs and Facilities; or

2. licensed or certified by the Department of Human Health under Title 26, Chapter 21, Health Care Facilities Licensing and Inspection Act.

V. "**Resident, residential facility**" means any building or portion thereof where an individual is actually living at a given point and time and intends to remain, and not a place of temporary sojourn or transient visit.

W. "**Retirement home**" means a residential facility designated, occupied, and intended for residents fifty (50) years of age or older where common facilities for cooking and dining are available to all residents and independent facilities are provided for living, sleeping and sanitation.

X. "**Sheltered workshop**" means an onsite supervised educational or vocational training facility for persons with a disability and does not provide any residential facilities.

Y. "**Shelter for the homeless**" means charitable lodging or sleeping rooms provided on a temporary basis (usually on a daily basis) to those members of society lacking other safe, sanitary or affordable shelter. A shelter for the homeless may also include kitchen and cafeteria facilities.

Z. "**Trade or vocational school**" means a post high school educational or vocational training facility.

AA. "**Transitional housing facility**" means a facility owned, operated or contracted by a governmental entity or a charitable, not for profit organization, where, for no compensation, temporary housing (usually three to twenty-four months, but in no event less than thirty days) is provided to homeless persons, while they obtain work, job skills, or otherwise take steps to stabilize their circumstances. A transitional housing facility shall not include a shelter for the homeless, and a dwelling unit provided to a family for the exclusive use as part of a transitional housing program, for more than thirty (30) days, shall not be considered to be a transitional housing facility.

17.84.020 Residential facilities for persons with a disability.

A. Applicability. This section shall be deemed to govern any facility, residence, or other circumstance that meets the definition of a residential facility as set forth in this ordinance, and the definition of a disabled person as set forth in this ordinance for the requirements of this section, shall govern the same notwithstanding any other provisions of the West Bountiful Municipal Code.

B. Purpose. The purposes of this section are:

1. To comply with Title 10, Chapter 9a, Section 520, Utah Code Annotated, 1953, as amended; and

2. To avoid discrimination in housing against persons with disabilities as provided in the Utah Fair Housing Act and the Federal Fair Housing Amendments Act as interpreted by the courts having jurisdiction over West Bountiful City.

C. Permitted Use. A residential facility for persons with a disability shall be a permitted use in any zoning district where a dwelling is allowed. Each such facility shall conform to the following requirements:

1. The facility shall comply with all applicable building, safety and health regulations, the Americans with Disabilities Act, fire regulations, and all applicable state core standards and licensing requirements, and any standards set forth in any contract with a state agency. The facility shall also comply with the city's land use zoning provisions applicable to single-family dwellings for the zone in which it is to be located, except as may be modified by the provisions of this chapter.

2. The following site development standards and parking standards shall be applicable:

a. Each facility shall be subject to minimum site development standards applicable to a dwelling unit in the zone in which the facility is located; and

b. The minimum number of parking spaces required shall be the same as the number required for a dwelling with similar occupancy density in the same zone.

3. No facility shall be made available to an individual who has demonstrated, by prior behavior, actions and/or criminal convictions, or as a resident, that he or she:

a. May be determined to be or does constitute a direct threat or substantial risk to the health or safety of other individuals; or

b. Has or may engage in conduct resulting in substantial physical damage to the property of others.

4. Prior to occupancy of the facility, the person or entity licensed or certified by the Department of Human Services or the Department of Health to establish and operate the facility shall:

a. Provide a certified copy of such license to the city recorder;

b. Certify, in a sworn affidavit submitted with the application for a business license, compliance with the Americans with Disabilities Act;

c. Certify, in a sworn affidavit submitted with the application for a business license, that no person will be placed or remain in the facility whose prior or current behavior, actions and/or criminal incidents or convictions, have demonstrated that such person is or may be a substantial risk or direct threat to the health or safety of other individuals, or whose said behavior, actions and/or incidents or convictions have resulted in or may result in substantial physical damage to the property of others.

5. The use permitted by this section is nontransferable and shall terminate if:

a. A facility is devoted to or used as other than a residential facility for persons with a disability; or

b. The license or certification issued by the Department of Human Services, Department of Health or any other applicable agency, terminates or is revoked; or

c. The facility fails to comply with the conditions set forth in this section.

6. In the A-1 and R-1-22 zones no residential facility for persons with a disability shall exceed five (5) residents, not including staff, or the family that owns the residence.

7. In the R-1-10, no residential facility for persons with disabilities shall exceed five (5) residents, not including staff, or the family that owns the residence.

8. No residential facilities for persons with disabilities shall be permitted in the C-G, C-N, L-I, and I-G zones.

9. Residential facilities for persons with disabilities that are substance abuse facilities and are located within five hundred feet (500') of a school or similar facility, shall provide, in accordance with rules established by the Department of Human Services under Title 62A, Chapter 2, Licensure of Program and Facilities:

a. a security plan satisfactory to local law enforcement authorities;

b. twenty-four (24) hour supervision for residents; and

c. other twenty-four (24) hour security measures.

D. Reasonable Accommodations. None of the foregoing conditions shall be interpreted to limit reasonable accommodations necessary to allow the establishment or occupancy of a residential facility for person(s) with a disability.

1. Any person or entity who wishes to request a reasonable accommodation shall make application to the city planning commission. Said applications shall specifically articulate, in writing, the following:

a. The name, mailing address, and phone number of the applicant;

b. The nature and extent of the disability;

c. An exact statement of the ordinance or policy from which the applicant needs a reasonable accommodation;

d. The applicant's proposed reasonable accommodations;

e. A statement detailing why a reasonable accommodation is necessary; and

f. The physical address of the property where the applicant intends on living.

2. When considering whether or not to grant a reasonable accommodation, the city planning commission shall consider the following factors, among others deemed appropriate and applicable:

a. The zoning ordinance applicable to the property;

b. The parking, traffic, and noise impact on the neighborhood if the reasonable accommodation is granted;

c. Whether or not the accommodation will be an undue burden or expense to the city;

d. The extent to which the accommodation will or will not benefit the applicant;

e. The extent to which the accommodation will or will not benefit the community;

f. Whether or not the accommodation fundamentally alters the city-wide zoning ordinance and whether or not the accommodation would likely create a fundamental change in the character of a residential neighborhood;

g. Whether or not the applicant has demonstrated that the accommodation will affirmatively enhance the applicant's life, or ameliorate the effects of the applicant's disability, or the lives or disabilities on whose behalf the entity is applying;

h. Whether or not, without the accommodation, similar housing is available in West Bountiful City for the applicant or group of applicants;

i. Given the scope of the accommodation requested, what is the impact on the immediate neighborhood; and

j. The requirements of applicable Federal and State laws and regulations.

3. Written findings and conclusions of the city planning commission shall be sent to the applicant within thirty (30) days after the decision by the city planning commission; and

4. If a request for a reasonable accommodation is denied, such decision may be appealed to the city council.

17.84.030 Residential facilities for elderly persons.

A. Purpose. The purpose of this code is to comply with Title 10, Chapter 9a, Sections 516 through 519, Utah Code Annotated, 1953, as amended.

B. Compliance. "Residential facilities for elderly persons" shall comply with all requirements of Sections 10-9a-516 through 519, and also the following requirements:

1. The facility shall meet all applicable building codes, safety codes, zoning regulations, the Americans with Disabilities Act, and health ordinance applicable to single-family or similar dwellings; except as may be modified by the provisions of this chapter;

2. No facility shall be made available to an individual who has demonstrated, by prior behavior, actions and/or criminal convictions, or as a resident, that he or she:

a. May be determined to be or does constitute a substantial risk or direct threat to the health or safety of other individuals; or

b. Has or may engage in conduct resulting in substantial physical damage to the property of others;

3. Minimum site development standards shall be the same as those for a dwelling unit in the zone in which the facility is located;

4. The facility shall be capable of being used as a residential facility for elderly persons without structural or landscaping alterations that would change the structure's residential character;

5. The use granted and permitted by this section is nontransferable and terminates if the structure is devoted to any use other than as a residential facility for the elderly or if the structure fails to comply with the applicable health, safety, zoning and building codes; and

6. No residential facility for elderly persons which facility has more than five (5) elderly persons in residence shall be established or maintained within three-fourths (3/4) of a mile measured in a straight line between the closest property lines of the lots or parcels of similar facilities, residential facilities for persons with disabilities, protective housing facilities, transitional housing facilities, assisted living facilities, rehabilitation/treatment facilities, or a nonresidential treatment facility.

17.84.040 Design standards for protective housing, rehabilitation/treatment facilities (both residential and nonresidential), transitional housing, and assisted living facilities, when allowed as a permitted or conditional use within West Bountiful City.

A. Any newly constructed, or remodeled facility in a residential zone or immediately abutting a residential zone shall comply with the following design standards:

1. All setbacks shall be according to the requirements of the residential zone in which the facility sits, or if the facility is in a commercial zone abutting a residential zone the setbacks shall be those of the abutting residential zone;

2. All required or accessory parking areas shall be located either in the rear yard area of the lot, or behind the main building or garage;

3. In addition to the maximum height restrictions of the individual residential zone, new building or additional buildings shall not exceed one hundred ten percent (110%) of the average height of the closest dwellings on both sides of the proposed structure;

4. In order for new construction to reflect the design and character of the existing neighborhood the following standards shall be met:

a. The roof design of the proposed structure or remodel shall be a pitched roof of the same slope as the most common roof slope of the homes on the side of the block on which the building is proposed; and

b. The type of exterior materials shall be of traditional home finished materials of brick, siding, or stucco. The use of these materials shall be applied in such a manner as to blend in with the neighborhood where the building is located and not draw undue attention to the building because of the materials, their color and combination being uncharacteristic of the other buildings in the neighborhood.

5. No facility shall be made available to an individual who has demonstrated, by prior behavior, actions and/or criminal convictions, or as a resident, that he or she:

a. May be determined to be or does constitute a substantial risk or direct threat to the health or safety of other individuals; or

b. Has or may engage in conduct resulting in substantial physical damage to the property of others.

6. To the extent similar requirements to any contained in this section (17.84.040) are contained in the specific zone in which any facility referred to herein may be located, the more restrictive provisions shall apply, and the requirements stated herein shall be considered to be in addition to presently existing zoning regulations, subject to the conflicts resolution provisions of this subsection (F).

17.84.050 Non-residential treatment facilities.

A. Non-residential treatment facilities shall not be built within West Bountiful City except as specifically allowed as a permitted or conditional use by proper designation in a zone or zones as outlined in Title 17. Each permitted facility, or facility allowed as a conditional use, shall conform to the following requirements:

1. The facility shall comply with all building, safety, zoning and health regulations, the Americans with Disabilities Act, fire regulations, and all applicable state core standards and licensing requirements, and any standards set forth in any contract with a state agency.

2. The following site development standards and parking standards shall be applicable:

a. Each facility shall be subject to minimum site development standards applicable to a business in the zone in which the facility may be located; and

b. The minimum number of parking spaces required shall be the same as the number required for an office building with similar size, occupancy, and density in the same zone.

3. Prior to occupancy of the facility, the person or entity licensed or certified by the Department of Human Services or the Department of Health to establish and operate the facility shall:

a. Provide a certified copy of such license with the city recorder;

b. Certify, in a sworn affidavit submitted with application for a business license, compliance with the Americans with Disabilities Act.

4. The use permitted by this section is nontransferable and shall terminate if:

a. A facility is devoted to or used as other than a nonresidential facility; or

b. The license or certification issued by the Department of Human Services, Department of Health or any other applicable agency, terminates or is revoked, or the facility fails to comply with the conditions set forth in this section.

5. No nonresidential treatment facility shall be established or maintained within seven hundred feet (700') measured in a straight line between the closest property lines of the lots or parcels of the following facilities:

a. A residential facility for persons with a disability;

b. A residential facility for elderly with more than five (5) elderly persons in a residence; or

c. Any of the following facilities: protective housing facility, transitional housing facility, assisted living facility or rehabilitation/treatment facility, a nonresidential treatment facility, and elementary schools.

6. No facility shall be made available to an individual who has demonstrated, by prior behavior, actions and/or criminal convictions, or as a resident, that he or she:

a. May be determined to be or does constitute a direct threat or substantial risk to the health or safety of other individuals; or

b. Has or may engage in conduct resulting in substantial physical damage to the property of others.

7. To the extent similar requirements to any contained in this section (17.84.050) are contained in the specific zone in which any facility referred to herein may be located, the more restrictive provisions shall apply, and the requirements stated herein shall be considered to be in addition to presently existing zoning regulations, subject to the conflicts resolution provisions of this subsection (G).

17.84.060 Limitations.

A. Only such uses and facilities as are specifically authorized in this chapter and in this title as permitted or conditional uses shall be allowed. All other uses and facilities are prohibited.

(17.84 Amendment - November 20, 2007; Ord. 299-07)

Chapter 17.88 WIRELESS TELECOMMUNICATIONS

Sections:

17.88.010 Short title.

This chapter shall be known as the wireless telecommunications zoning ordinance. (Ord. 256-98 § 1.1)

17.88.020 Purpose.

The purposes of this chapter are:

A. To regulate personal wireless services antennas, with or without support structures, and related electronic equipment and equipment structures;

B. To provide for the orderly establishment of personal wireless services facilities in the city;

C. To minimize the number of antenna support structures by encouraging the colocation of multiple antennas on a single structure, by encouraging the location of antennas on pre-existing support structures, and by encouraging the use of city-owned property for antenna support structures;

D. To establish siting, appearance and safety standards that will help mitigate potential impacts related to the construction, use and maintenance of personal wireless services facilities;

E. To comply with the Telecommuni-cations Act of 1996 by establishing regulations that: (1) do not prohibit or have the effect of prohibiting the provision of personal wireless services; (2) do not unreasonably discriminate among providers of functionally equivalent services; and (3) are not based on the environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communication Commission's regulations concerning such emissions. (Ord. 256-98 § 1.2)

17.88.030 Findings.

The city council makes the following findings:

A. Personal wireless services devices are an integral part of the rapidly growing and evolving telecommunications industry, and present unique zoning challenges and concerns for the city.

B. The city needs to balance the interests and desires of the telecommunications industry and its customers to provide competitive and effective telecommunications systems in the city, against the sometimes differing interests and desires of others concerning health, safety, welfare and aesthetics, and orderly planning of the community.

C. The city has experienced an increased demand for personal wireless services facilities to be located in the city, and expects the increased demand to continue into the future.

D. It is in the best interests of the city to have quality personal wireless services available, which necessarily entails the erection of personal wireless services facilities in the city.

E. The unnecessary proliferation of personal wireless services facilities throughout the city creates a negative visual impact on the community.

F. The visual effects of personal wireless services facilities can be mitigated by fair standards regulating their siting, construction, maintenance and use.

G. The city owns parcels of property throughout the city, where personal wireless services facilities can be located so as to be as inoffensive as possible to the residents and businesses of the city.

H. Spacing personal wall mounted antennas, roof mounted antennas and stealth facilities evenly throughout the city reduces the negative impact created by the proliferation of telecommunication towers.

I. Because of the height and appearance of personal wireless services facilities, surrounding properties bear a disproportionate share of the negative impacts of a telecommunications tower.

J. A private property owner who leases space for a personal wireless services facility is the only one who receives compensation for the facility, even though numerous other property owners in the area are adversely affected by the location of the facility.

K. Encouraging personal wireless services facilities to be located on city property, with lease payments paid to the city instead of an individual property owner, indirectly compensates all citizens of the community for the adverse impacts of the facilities, and is therefore the fairest method of distributing burden and benefit.

L. Locating antennas on existing buildings and structures creates less of a negative visual impact on the community than the erection of towers.

M. Buildings and structures on public property are capable of being used to provide support for antenna arrays, thus reducing the proliferation of towers in all areas of the city.

N. The public policy objectives to reduce the proliferation of telecommunication towers and to mitigate their impact can best be facilitated by permitting the locating of antennas on telecommunication towers and antenna support structures that are located on property owned, leased or used by the city.

O. The requirements set forth in this chapter for the placement of personal wireless services facilities on property owned, leased or used by the city are necessary to protect the health, safety and general welfare of the community.

P. Title 69, Chapter 3, Utah Code Annotated, grants cities the authority to create or acquire sites to accommodate the erection of telecommunication towers in order to promote the location of telecommunication towers in a manageable area and to protect the aesthetics and environment of the area. The law also allows the city to require the owner of any tower to accommodate the multiple use of the tower by other companies where feasible and to pay the city the fair market rental value for the use of any city-owned site. (Ord. 256-98 § 1.3)

17.88.040 Definitions.

The following words shall have the described meaning when used in this chapter, unless a contrary meaning is apparent from the context of the word.

"**Antenna**" means a transmitting or receiving device used in telecommunications that radiates or captures radio signals.

"**Antenna support structures**" means any structure that can be used for the purpose of supporting an antenna(s).

"**City**" means the city of West Bountiful, Utah.

"**City-owned property**" means real property that is owned, leased or controlled by the city.

"**Co-location**" means the location of an antenna on an existing structure, tower or building that is already being used for personal wireless services facilities.

"**Guyed tower**" means a tower that supports an antenna or antennas and requires guy wires or other stabilizers for support.

"**Lattice tower**" means a self-supporting three or four-sided, open steel frame structure used to support telecommunications equipment.

"**Monopole**" means a single, self-supporting, cylindrical pole, constructed without guy wires or ground anchors, that acts as the support structure for antennas.

"**Monopole antenna with platform**" means a monopole with antennas and antenna support structure exceeding three feet in width, but not exceeding fifteen (15) feet in width or eight feet in height.

"**Monopole antenna with no platform**" means a monopole with antennas and antenna support structure not exceeding three feet in width or ten (10) feet in height.

"**Nonresidential**" means all zones except residential and agricultural.

"**Personal wireless services**" means commercial mobile telecommunications services, unlicensed wireless telecommunications services, and common carrier wireless telecommunications exchange access services.

"**Personal wireless services antenna**" means an antenna used in connection with the provision of personal wireless services.

"**Personal wireless services facilities**" means facilities for the provision of personal wireless services. Personal wireless services facilities include transmitters, antennas, structures supporting antennas, and electronic equipment that is typically installed in close proximity to a transmitter.

"**Private property**" means any real property not owned by the city, even if the property is owned by another public or governmental entity.

"**Roof mounted antenna**" means an antenna or series of individual antennas mounted on a roof, mechanical room or penthouse of a building or structure.

"**Stealth facilities**" means personal wireless services facilities which have been designed to be compatible with the natural setting and surrounding structures, and which camouflage or conceal the presence of antennas and/or towers. The term includes, but is not limited to, clock towers, church steeples, light poles, flag poles, signs, electrical transmission facilities and water tanks.

"**Tower"** means a free-standing structure, such as a monopole tower, lattice tower, or guyed tower, that is used as a support structure for personal wireless services facilities.

"**Wall mounted antenna**" means an antenna or series of individual antennas mounted on the vertical wall of a building or structure.

"**Whip antenna**" means an antenna that is cylindrical in shape. Whip antennas can be directional or omnidirectional and vary in size depending on the frequency and gain for which they are designed. (Ord. 256-98 § 1.4)

17.88.050 Applicability.

This chapter (the wireless telecommuni-cations zoning ordinance) applies to both commercial and private low power radio services and facilities, such as cellular or PCS (personal communications system) communi-cations and paging systems. This chapter shall not apply to the following types of communications devices, although they may be regulated by other city ordinances and policies:

A. Satellite: any device designed for over-the-air reception of television broadcast signals, multichannel multi-point distribution service or direct satellite service.

B. Cable: any cable television headend or hub towers and antennas used solely for cable television services. (Ord. 256-98 § 1.5)

17.88.060 Application requirements.

Any person desiring to develop, construct or establish a personal wireless services facility in the city shall submit an application for site plan approval to the city. The city shall not consider the application until all required information has been included. The application shall include the following:

A. Fee. The applicable fee set by the city.

B. Site Plan. A site plan consisting of one or more pages of maps and drawings drawn to scale. The applicant shall submit five copies of the proposed site plan. One of the copies shall be eight and one-half inches by eleven (11) inches, and the other four copies shall be at least eight and one-half inches by eleven (11) inches, but not larger than twenty-four (24) inches by thirty-six (36) inches. The proposed site plan shall be drawn to a scale large enough to clearly show all details and in any case not smaller than sixty (60) feet to the inch. The site plan for personal wireless services facilities shall include the following information and items:

1. Name and street address of the site or location;

2. Name of applicant;

3. Name of owner of property;

4. North arrow;

5. Scale of drawing;

6. Area of lot in square feet;

7. Lot line dimensions;

8. A vicinity map containing sufficient information to accurately locate the property shown on the plan;

9. Names and locations of fronting streets and locations and dimensions of public streets, private streets and driveways;

10. Footprints of existing and proposed buildings and structures, including a notation of each unit's height above the grade;

11. Location and size of existing and proposed antennas, with dimensions to property lines;

12. Location of existing and proposed fire protection devices;

13. Location, dimensions and distance to property lines of existing and proposed drive accesses;

14. Location and dimensions of existing and proposed curbs, gutters and sidewalks;

15. Location and dimension of off-street parking spaces;

16. Location and type of surface water drainage system;

17. Drawings of proposed structure elevations showing the height, dimensions, appearance and materials proposed;

18. Location and description (height, materials) of existing and proposed fences;

19. Location and description (dimensions, distance to property lines and type of lighting (direct or indirect)) of existing and proposed signs;

20. A security lighting plan, if proposed;

21. Landscape plan to scale indicating size, spacing and type of plantings;

22. A signed lease agreement with the city if the site is located on city property.

C. Written Information. The following written information:

1. Environment. A full description of the environment surrounding the proposed facility, including a description of adjacent uses, any adjacent residential structures, and any structures and sites of historic significance;

2. Maintenance. A description of the anticipated maintenance needs for the facility, including frequency of service, personnel needs, equipment needs, and traffic noise and safety impacts of such maintenance;

3. Service Area. A description of the service area for the facility and a statement as to whether the facility is needed for coverage or capacity;

4. Location. A map showing the site and the nearest or associated personal wireless service facility sites within the network. Describe the distance between the personal wireless service facility sites. Describe how this service area fits into the service network;

5. Licenses and Permits. Copies of all licenses and permits required by other agencies and governments with jurisdiction over the design, construction, location and operation of the facility;

6. Radio Frequency Emissions. A written commitment to comply with applicable Federal Communications Commission radio frequency emission regulations;

7. Liaison. The name of a contact person who can respond to questions concerning the application and the proposed facility. Include name, address, telephone number, facsimile number and electronic mail address, if applicable.

D. Additional Information Requirements for Monopoles. If the applicant desires to construct a monopole, the applicant shall also submit a detailed written description of why the applicant cannot obtain coverage using existing buildings or structures.

E. Additional Information Requirement for Facilities Not Located on Highest Priority Site. If the applicant desires to locate antennas on a site other than the highest priority site (as described in Section 17.88.090), the applicant shall provide the following information to the approving authority:

1. Higher Priority Sites. The identity and location of any higher priority sites located within the desired service area;

2. Reason for Rejection of Higher Priority Sites. The reason(s) why the higher priority sites are not technologically, legally or economically feasible;

3. Justification for Proposed Site. Why the proposed site is essential to meet the service demands of the geographic service area and the citywide network. (Ord. 256-98 § 2.1)

17.88.070 Approval process.

The application and site plan shall be reviewed by the city pursuant to its standard site plan approval process. If the facility requires a conditional use permit, the review shall be pursuant to the city's standard conditional use permit approval process. The city shall process all applications within a reasonable time and shall not unreasonably discriminate among providers of functionally equivalent services. Any decision to deny a request to place, construct or modify personal wireless service facilities will be supported by city's reasons for denying. (Ord. 256-98 § 2.2)

17.88.080 Building permits.

A. General Requirements. No tower or antenna support structure shall be constructed until the applicant obtains a building permit from the city. No building permit shall be issued for any project for which a site plan, amended site plan or conditional use permit is required, until the site plan, amended site plan or conditional use permit has been approved by the appropriate authority. If the design or engineering of the antenna support structure is beyond the expertise of the city building official, the

city may require third party review by an engineer selected by the city prior to the issuance of a building permit. The applicant shall pay an additional fee to cover the cost of the third party review.

B. Additional Requirements for Monopoles and Towers. If the applicant is constructing a monopole or other tower-type structure, the applicant shall, if requested by the city, submit a written report from a qualified, structural engineer licensed in the state of Utah, documenting the following:

1. Height and design of the monopole or tower, including technical, engineering, economic and other pertinent factors governing selection of the proposed design;

2. Seismic load design and wind load design for the monopole or tower;

3. Total anticipated capacity of the monopole or tower, including number and types of antennas, and antenna support platforms, which can be accommodated;

4. Structural failure characteristics of the monopole or tower and a demonstration that the site and setbacks are of adequate size to contain debris;

5. Soil investigation report, including structural calculations. (Ord. 256-98 § 2.3)

17.88.090 Location--Priority of antenna site locations.

Personal wireless services antennas shall be located as unobtrusively as is reasonably possible.

To accomplish this goal, the provider shall make a good faith effort to locate antennas on sites in the following order of priority:

A. Existing City-Owned Structures. Existing buildings, structures and antenna support structures located on city-owned property;

B. Existing Structures. Lawfully existing buildings, structures and antenna support structures; provided, that the buildings, structures or support structures are: (1) located in a nonresidential zone; or (2) located in a residential zone on property that is being used for nonresidential uses (e.g., government, school or church); or (3) located in a residential zone on a property that is being used for a multifamily residential building having eight or more dwelling units and which is at least thirty-five (35) feet in height;

C. Stealth Facilities. Stealth facilities as defined by this chapter;

D. Monopoles on City-Owned Property. Monopoles constructed on city-owned property;

E. Monopoles on Nonresidential Private Property. Monopoles constructed on private property; provided, that the private property is: (1) located in a nonresidential zone; or (2) located in a residential zone on property that is used for a nonresidential use (e.g., government, school or church);

F. Other. Sites other than those listed above. (Ord. 256-98 § 3.1)

17.88.100 Location--Burden of proof.

The applicant shall attempt to locate its antennas on sites in the order of priority set forth above. If the applicant desires to locate antennas on a site other than the highest priority site, the applicant shall have the burden of demonstrating to the approving authority why it could not locate antennas on sites with a higher priority than the site chosen by the applicant. To do so, the applicant shall provide the following information to the approving authority:

A. Higher Priority Sites. The identity and location of any higher priority sites located within the desired service area;

B. Reason for Rejection of Higher Priority Sites. The reason(s) why the higher priority sites are not technologically, legally or economically feasible. The applicant must make a good faith effort to locate antennas on a higher priority site. The city may request information from outside sources to justify or rebut the applicant's reasons for rejecting a higher priority site;

C. Justification for Proposed Site. Why the proposed site is essential to meet the service demands of the geographic service area and the citywide network. (Ord. 256-98 § 3.2)

17.88.110 Permitted and conditional uses.

A. Permitted Uses. The following antenna locations are permitted uses, provided that the applicant complies with other applicable laws and regulations:

1. Existing Structures on City-Owned Property. Existing buildings, structures and antenna support structures located on city-owned property;

2. Existing Structures on Private Property. Lawfully existing buildings and structures located on private property; provided, that the private property is: (1) located in a non-residential zone; or (2) located in a residential zone on property that is used for a non-residential use (e.g., government, school or church); or (3) located in a residential zone on property that is being used for a multifamily residential building having eight or more dwelling units and which is at least thirty-five (35) feet in height;

3. Co-location. Co-location on a lawfully existing antenna support structure located on private property;

4. Monopoles in Industrial Areas. Monopoles constructed in industrial or manufacturing zones;

5. Stealth Facilities in Nonresidential Zones. Stealth facilities constructed in non-residential zones, unless they are constructed as part of a structure for which a conditional use permit is otherwise required, in which case they shall be conditional uses.

B. Not Permitted Uses. The following antenna types and antenna locations are not permitted, except upon a showing of necessity (inability to achieve coverage or capacity in the service area) by the applicant, in which case they shall be considered as conditional uses:

1. Lattice Towers and Guyed Towers. Lattice towers, guyed towers, and other non-stealth towers, with the exception of monopoles, are not permitted in any zone.

2. Monopoles on Private Property in a Residential Zone. Monopoles located on residentially zoned private property, if the residentially zoned property has a residential use (as opposed to a school, church, or other nonresidential use).

C. Conditional Uses. Antennas proposed for any other location shall be considered as conditional uses; provided, that the applicant complies with other applicable laws and regulations. (Ord. 256-98 § 3.3)

17.88.120 Co-location requirement.

Unless otherwise authorized by the city for good cause shown, every new monopole shall be designed and constructed to be of sufficient size and capacity to accommodate at least two additional wireless telecommunications provider on the structure in the future which shall meet all applicable requirements as forth in Section 17.88.060 through 17.88.080. Any conditional use permit for the monopole may be conditioned upon the agreement of the applicant to allow colocation of other personal wireless providers on such terms as are common in the industry. (Ord. 256-98 § 3.4)

17.88.130 Lease agreement.

The city shall enter into a standard lease agreement with the applicant for any facility built on city property. The city administrator or mayor or designee is authorized to execute the standard lease agreement on behalf of the city. The lease shall contain the condition that the site plan and/or conditional use permit must first be approved by the approving authority before the lease can take effect, and that failure to obtain such approval renders the lease null and void. (Ord. 256-98 § 3.5)

17.88.140 Standards for antennas and antenna support structures.

Personal wireless services facilities are characterized by the type or location of the antenna structure. There are five general types of antenna structures contemplated by this chapter: wall mounted antennas; roof mounted antennas; monopoles with no platform; monopoles with a platform; and stealth facilities. If a particular type of antenna structure is allowed by this chapter as a permitted or conditional use, the minimum standards for that type of antenna are as follows, unless otherwise provided in a conditional use permit:

A. Wall Mounted Antennas.

1. Maximum Height. Wall mounted antennas shall not extend above the roof line of the building or structure or extend more than four feet horizontally from the face of the building.

2. Setback. Wall mounted antennas shall not be located within one hundred (100) feet of any residence.

3. Mounting Options. Antennas mounted directly on existing parapet walls, penthouses or mechanical equipment rooms are considered to be wall mounted antennas if no portion of the antenna extends above the roof line of the parapet wall, penthouse or mechanical equipment room.

4. Color. Wall mounted antennas, equipment and supporting structures shall be painted to match the color of the building or structure or the background against which they are most commonly seen. Antennas and the supporting structure on the building shall be architecturally compatible with the building. Whip antennas are not allowed on a wall mounted antenna structure.

B. Roof Mounted Antennas.

1. Maximum Height. The maximum height of a roof mounted antenna shall be eighteen (18) feet above the roof line of the building.

2. Setback. Roof mounted antennas shall be located at least five feet from the exterior wall of the building or structure, and at least fifty (50) feet from any residence.

3. Mounting Options. Roof mounted antennas may be mounted on top of existing penthouses or mechanical equipment rooms if the antennas and antenna support structures are enclosed or visually screened from view. The screening structure may not extend more than eight feet above the existing roof line of the penthouse or mechanical equipment room.

4. Color. Roof mounted antennas, equipment and supporting structures shall be painted to match the color of the building or structure or the background against which they are most commonly seen. Antennas and supporting structures shall be architecturally compatible with the building.

5. Combination of Wall and Roof Mounted Antennas. Any building may have a combination of wall and roof mounted antennas. The total area for all wall and roof mounted antennas and supporting structures on any one building shall not exceed the lesser of sixty (60) square feet or five percent of each exterior wall of the building.

C. Monopoles with no Platform.

1. Maximum Height and Width. The maximum height of the monopole or monopole antenna shall be one hundred (100) feet, with the allowance for an antenna or antenna support structure for a maximum of one hundred and ten (110) feet in height. The entire antenna structure mounted on the monopole shall not exceed three feet in width. The antenna itself shall not exceed ten (10) feet in height.

2. Setback. Monopoles shall be set back a minimum of one hundred fifteen (115) percent of the height of the monopole from any residential lot line, measured from the base of the monopole to the nearest residential lot line.

3. Color. Monopoles, antennas and related support structures shall be painted a neutral color, or a color to match the background against which they are most commonly seen.

D. Monopoles with Platform.

1. Maximum Height and Width. The maximum height of the monopole or monopole antenna shall be one hundred (100) feet, with the allowance for an antenna or antenna support

structure, for a maximum of one hundred and ten (110) feet in height. The antennas and antenna mounting structures on the monopole shall not exceed eight feet in height or fifteen (15) feet in width. The antenna itself shall not exceed ten (10) feet in height.

2. Setback. Monopoles shall be set back a minimum of one hundred fifteen (115) percent of the height of the monopole from any residential lot line, measured from the base of the monopole to the nearest residential lot line.

3. Color. Monopoles, antennas and related support structures shall be painted a neutral color, or a color to match the background against which they are most commonly seen.

E. Stealth Facilities--Maximum Height. The maximum height of a stealth facility shall be the maximum structure height on the zoning district in which the stealth facility is located. The applicant may exceed the maximum structure height if allowed pursuant to a conditional use permit. (Ord. 256-98 § 4.1)

17.88.150 Additional conditional use permit considerations.

In addition to the city's standard conditional use permit considerations, the city shall consider the following factors when deciding whether to grant a conditional use permit for a personal wireless services facility:

A. Compatibility. Compatibility of the facility with the height, mass and design of buildings, structures and uses in the vicinity of the facility;

B. Screening. Whether the facility uses existing or proposed vegetation, topography or structures in a manner that effectively screens the facility;

C. Disguise. Whether the facility is disguised in a manner that mitigates potential negative impacts on surrounding properties;

D. Parcel Size. Whether the facility is located on a parcel of sufficient size to adequately support the facility;

E. Location on Parcel. Whether the structure is situated on the parcel in a manner that can best protect the interests of surrounding property owners, but still accommodate other appropriate uses of the parcel;

F. Location in General. Whether location or co-location of the facility on other structures in the same vicinity is practicable, without significantly affecting the antenna transmission or reception capabilities;

G. Co-location. The willingness of the applicant to allow co-location on its facility by other personal wireless services providers on such terms as are common in the industry. (Ord. 256-98 §4.2)

17.88.160 Additional regulations for monopoles and towers.

A. Distance from other Monopoles. Monopoles and towers shall be located at least three thousand (3,000) feet from each other, except upon a showing of necessity by the applicant, or upon a finding by the city that a closer distance would adequately protect the health, safety and welfare of the

community. This distance requirement shall not apply to stealth facilities or to antennas attached to existing lawful structures such as transmission towers, utility poles, outdoor lighting structures, and water tanks.

B. Location on Parcel. Monopoles shall be located as unobtrusively on a parcel as possible, given the location of existing structures, nearby residential areas, and service needs of the applicant. Monopoles shall not be located in a required landscaped area, buffer area or parking area. (Ord. 256-98 § 4.3)

17.88.170 Safety.

A. Regulation Compliance.

1. Compliance with FCC and FAA Regulations. All operators of personal wireless services facilities shall demonstrate compliance with applicable Federal Communication Commission (FCC) and Federal Aviation Administration (FAA) regulations, including FCC radio frequency regulations, at the time of application and periodically thereafter as requested by the city. Failure to comply with the applicable regulations shall be grounds for revoking a site plan or conditional use permit approval.

2. Other Licenses and Permits. The operator of every personal wireless services facility shall submit copies of all licenses and permits required by other agencies and governments with jurisdiction over the design, construction, location and operation of the facility to the city, shall maintain such licenses and permits in good standing, and shall provide annually evidence of renewal or extension thereof.

B. Protection Against Climbing. Monopoles shall be protected against unauthorized climbing by removing the climbing pegs from the lower twenty (20) feet of the monopole.

C. Fencing. Monopoles and towers shall be fully enclosed by a minimum six-foot tall fence or wall, as directed by the city, unless the city determines that a wall or fence is not needed or appropriate for a particular site due to conditions specific to the site.

D. Security Lighting Requirements. Monopoles and towers shall comply with the FAA requirements for lighting. As part of the conditional use permit consideration, the city may also require security lighting for the site. If security lighting is used, the lighting impact on surrounding residential areas shall be minimized by using indirect lighting, where appropriate.

E. Abandonment. The city may require the removal of all personal wireless service facilities upon written notice if the facility has been inoperative or out of service for more than three consecutive months.

1. Notice. Notice to remove shall be given in writing by personal service, or by certified mail addressed to the operator's last known address.

2. Violation. Failure to remove the personal wireless service facilities after receiving written notice to remove is a violation of the terms of this chapter and is a Class B misdemeanor. The city may initiate criminal and/or civil legal proceeding against any person, firm, entity or corporation, whether acting as principal, agent, property owner, lessee, lessor, tenant, landlord, employee, employer or otherwise. Commencement of removal must begin within

fifteen (15) days and be completed within thirty (30) days. Any lease agreement with the city may also stipulate failure to remove the antennas and monopoles after receiving written notice to do so pursuant to this chapter automatically transfers ownership of the antennas, monopoles, support buildings and all other structures on the site to the city. (Ord. 256-98 § 5)

17.88.180 Site requirements.

A. Regulations for Accessory Structures.

1. Storage Areas and Solid Waste Receptacles. No outside storage or solid waste receptacles shall be permitted on the site.

2. Equipment Enclosures. All electronic and other related equipment and appurtenances necessary for the operation of any personal wireless services facility shall, whenever possible, be located within a lawfully pre-existing structure or completely below grade. When a new structure is required to house such equipment, the structure shall be harmonious with, and blend with, the natural features, buildings and structures surrounding such structure.

3. Accessory Buildings. Freestanding accessory buildings used with a personal wireless services facility shall not exceed four hundred fifty (450) square feet and shall comply with the setback requirements for structures in the zone in which the facility is located.

B. Parking. The city may require a minimum of one parking stall for sites containing a monopole, tower, and/or accessory buildings, if there is insufficient parking available on the site.

C. Maintenance Requirements. Any operation of a personal wireless services facility shall maintain the facility in a safe, neat and attractive manner.

D. Landscaping. All sites with a personal wireless services facility shall be landscaped in accordance with the zone requirements where the facility is located. Any such landscaping on city owned property shall be subject to applicable provision of any lease with the city regarding such property. (Ord. 256-98 §6)

Chapter 17.92 OUTDOOR STORAGE AND OUTDOOR MERCHANDISING

Sections:

17.92.010 Requirements Generally.

In addition to requirements found elsewhere in this code and laws of the state, all outdoor storage and outdoor merchandising shall be done under the requirements of this chapter.

A. Outdoor storage facilities for "automobile graveyards," “tow yards,” “salvage yards,” "junk," "junk dealers," "scrap metal processor" and "junkyards" are prohibited.

B. Except for agricultural products, outdoor storage facilities for raw materials, parts and products shall be enclosed by a fence or wall at least six feet in height and impervious to sight, adequate to conceal such facilities, materials, parts, and products from adjacent properties and the street unless expressly exempted elsewhere in this code. No items may be stacked higher than the fence or wall of the enclosure.

C. No material or waste shall be deposited or stored upon any property in such form or manner that may be easily transferred off such property by natural causes or forces such as wind and rain. All materials or wastes which, in the opinion of the city, cause excessive fumes or dust, or which constitute a fire hazard, or which may be edible by, or otherwise be attractive to rodents or insects may not be stored outdoors.

D. No yard or other open space around a building shall be used for the storage of junk, building materials, debris, inoperable vehicles or commercial equipment, and no other land shall be used for such purposes except as specifically permitted herein.

E. Open storage of hay or other agricultural products shall be located not less than thirty (30) feet from a public street.

F. Outdoor merchandising may include provisions for off-site, temporary vehicle parking, where the parking is controlled by an access gate and the term of parking shall not exceed five consecutive days without the vehicle being removed from the site. Notwithstanding the foregoing, outdoor wholesale merchandising of motorized vehicles or vehicle parts (other than boats), as well as the outdoor storage of such vehicles or parts, is prohibited.

G. Seasonal outdoor merchandising shall be limited to the specific seasonal duration approved by the planning commission through a conditional use permit. All materials, displays, fencing, lighting and other facilities associated with the outdoor merchandising function shall be precluded at all other times.

H. Outdoor merchandising shall be consistent with the nature and use of the associated business or as provided by the planning commission under a conditional use permit.

17.92.020 Storage/Merchandising/Zoning Permitted and Conditional Use Matrix

See attached Matrix

17.92.020 Storage/Merchandising/Zoning Permitted and Conditional Use Matrix

The number(s) in the restrictions column refer to the restrictions at the end of the matrix. "C" represents Conditional Use; "P" represents Permitted Use. If a block is blank, outdoor storage and/or outdoor merchandising is not allowed.

	CN Zone		CG Zone		LI Zone		IG Zone		CH Zone	
	Permitted or Conditional	Restrictions	Permitted or Conditional	Restrictions	Permitted or Conditional	Restrictions	Permitted or Conditional	Restrictions	Permitted or Conditional	Restrictions
Public or quasi-public uses	C	1	C	1	C	1	P		C	7
General merchandise sales (retail or wholesale) less than 2000 sq. ft.	P	2	P	2					C	2
Convenience stores										
Learning studios			C	3	C	3				
Custom woodwork-ing	C	2, 3					P	1, 9	C	2, 3
Sheet metal	C	3					P	1, 9		
Contractor –general, electrical, mechanical, plumbing,	C	1, 9					P	1	C	1, 9

	CN Zone		CG Zone		LI Zone		IG Zone		CH Zone	
	Permit-ted or Condi-tional	Restric tions	Permit-ted or Condi-tional	Restric tions	Permit-ted or Condi-tional	Restric tions	Permit-ted or Condi-tional	Restric tions	Permit-ted or Condi-tional	Restric tions
HVAC										
Fabrication, welding and other industrial equipment and materials							P	1, 6	C	1, 9
Manufactu ring, compound ing, processing, milling and packaging of products1							P	6		
Printing and publishing					C		C			
Lawn and yard care	C						P	1, 6	C	1, 6
Businesses and uses which are similar to 17.28.020 and 17.28.030 (C-N)	C									
Motor vehicle retail sales and service			C	1, 5	C	5	C	5	C	5
Grocery			C							

	CN Zone		CG Zone		LI Zone		IG Zone		CH Zone	
	Permit-ted or Condi-tional	Restric tions	Permit-ted or Condi-tional	Restric tions	Permit-ted or Condi-tional	Restric tions	Permit-ted or Condi-tional	Restric tions	Permit-ted or Condi-tional	Restric tions
store										
Lumber and other building material, retail sales			C	4	C	4	C	4	C	1, 6
Marine and aircraft retail sales and accessorie s			C	5					C	5
Commer-cial schools			C	3						
Businesses and uses which are similar to 17.34.020 and 17.34.030 (C-H)									C	1, 6
Other retail businesses which are similar to 17.32.020 and 17.32.030 (C-G)			C	1, 3, 7						
Research and develop-ment					C		C			

	CN Zone		CG Zone		LI Zone		IG Zone		CH Zone	
	Permit-ted or Condi-tional	Restric tions	Permit-ted or Condi-tional	Restric tions	Permit-ted or Condi-tional	Restric tions	Permit-ted or Condi-tional	Restric tions	Permit-ted or Condi-tional	Restric tions
Warehouse and storage facilities					C	1, 3	C	1, 4	C	1, 6
Automotive parts and accessories – not tires or batteries					C	4	P	1, 4		
Steel structural members and related products					C	1, 4	P	1, 4		
Lumber and wood products (other than for retail sale)					C	1, 4	P	1, 4		
Apparel and other textile products							P	4		
Paper and allied products							P	6		
Electronic and electrical products					C	6	P	6		
Rubber and plastic products					C	6	P	6		
Other uses similar to 17.36.020					C		C			

	CN Zone		CG Zone		LI Zone		IG Zone		CH Zone	
	Permitted or Conditional	Restrictions	Permitted or Conditional	Restrictions	Permitted or Conditional	Restrictions	Permitted or Conditional	Restrictions	Permitted or Conditional	Restrictions
and 17.36.030 (L-I)										
Storage of inflammable and inflammable bulk liquids							C	6		
Outdoor storage of merchandise or equipment							C	1, 8	C	1
Other uses and businesses similar to 17.40.020 and 17.40.030 (I-G)							C			

Restrictions:

1. Provide for visual screening and security as determined by the City (the zoning administrator for permitted uses and the planning commission for conditional uses).
2. Merchandise to be stored indoors after business hours.
3. Storage not to exceed seven days, with a minimum of thirty (30) days between storage events.
4. Storage to be accomplished within a three-sided, roofed building or structure.
5. Merchandise shall be displayed in an orderly fashion and shall make up the majority of the business revenue or activity. All merchandise shall be of such a nature as to allow for immediate sale and use.
6. Storage shall meet appropriate state and/or federal requirements for environmental protections.
7. Seasonal merchandise.
8. Materials or equipment used in manufacturing.
9. Equipment exceeding 20 feet in height that will be visible from outside the perimeter of the property must be stored indoors; all materials that will be visible from outside the perimeter of the property must be stored indoors or within a three-sided, roofed building or structure.

11/2/2011