

ORDINANCE NO. 2021-25

AN ORDINANCE AMENDING SECTIONS 10.16.030 UNLAWFUL TYPES OF PARKING, 12.30.040 REVIEW OF DECISION, 17.16.010 REQUIRED PROCEDURES FOR APPROVAL, 17.48.040 SMALL SUBDIVISIONS, 18.08.110 CONDITIONAL USE, 18.08.580 SPECIAL EXCEPTION – CONDITIONAL USE, 18.08.620 VARIANCE, 18.12.090 ZONING ADMINISTRATOR – POWERS AND DUTIES, 18.12.100 APPEAL AUTHORITY, 18.12.110 BOARD OF ADJUSTMENT – ORGANIZATION, 18.12.120 BOARD OF ADJUSTMENT – POWERS AND DUTIES, 18.130 APPEALS – REQUEST TO APPEAR – FEE, 18.12.0140 APPEALS PROCEDURE, 18.12.150 APPEALS – HEARING, 18.12.160 APPEALS – NOTICE OF DECISION, 18.12.170 FURTHER APPEAL, 18.12.180 PLANNING COMMISSION – POWERS AND DUTIES, 18.12.190 AMENDMENT OF THE ZONING ORDINANCE OR MAP, 18.12.200 SMALL LOT SPLITS, 18.16.020 BOUNDARIES OF ZONES, 18.24.020 PERMITTED USES, 18.28.030 PERMITTED USES, 18.40.020 PERMITTED USES, 18.42.030 PERMITTED USES, 18.42.110 DEVELOPMENT AGREEMENTS, 18.44.020 PERMITTED PRIMARY USES, 18.51.050 SETBACKS, 18.63.020 PERMITTED USES, 18.64.020 PERMITTED USES, 18.68.505 REVIEW AND APPROVAL, 18.72.030 PARKING SPACE REQUIREMENTS – DESIGNATED, 18.80.020 MOBILE HOME PLACEMENT RESTRICTED, 18.103.030 INTERPRETATION, 18.103.050 ENFORCEMENT, 18.103.060 NONCONFORMING SIGNS, 18.103.140 SAFETY AND LOCATION STANDARDS FOR PERMANENT SIGNS, 18.106.040 REQUIREMENTS AND PROCEDURES, 18.104.045 REQUIREMENTS FOR A PUBLIC FACILITIES FOR SPECIAL EVENTS, 18.108.070 USES NOT EXPRESSLY PERMITTED ARE PROHIBITED, 18.108.080 MOVED BUILDINGS, 18.108.090 TRANSITIONAL USE, 18.108.110 OWNER OCCUPIED ACCESSORY APARTMENTS, 18.109.040 ADMINISTRATION, 18.110.200 EXPANSION, ALTERATION, AND NONCONFORMING USES, AND CHAPTERS 17.18 PROPERTY LINE ADJUSTMENTS AND 18.112 NONCONFORMING USES, NONCOMPLYING STRUCTURES, AND OTHER NONCONFORMITIES, AND REPEALING CHAPTER 18.122 FEE SCHEDULE, OF THE HEBER CITY MUNICIPAL CODE

WHEREAS, the Heber City Council finds it in the public interest to replace the “Board of Adjustment” with an “Appeal Authority”.

WHEREAS, the Heber City Council finds it necessary to amend Chapter 18.112 Nonconforming Uses, to bring the chapter into compliance with Utah State Code.

WHEREAS, the Heber City Council finds it necessary to repeal Chapter 18.122 Fee Schedule to reduce conflict with the Consolidated Fee Schedule. BE IT ORDAINED by the City Council of Heber City, Utah, that Sections **10.16.030, 12.30.040, 17.16.010, 17.48.040, 18.08.110, 18.08.580, 18.08.620, 18.12.090, 18.12.100, 18.12.110, 18.12.120, 18.130, 18.12.0140, 18.12.150, 18.12.160, 18.12.170, 18.12.180, 18.12.190, 18.12.200, 18.16.020, 18.24.020, 18.28.030, 18.40.020, 18.42.030, 18.42.110, 18.44.020, 18.51.050, 18.63.020, 18.64.020, 18.68.505, 18.72.030, 18.80.020, 18.103.030, 18.103.050, 18.103.060, 18.103.140, 18.106.040, 18.104.045, 18.108.070, 18.108.080, 18.108.090, 18.108.110, 18.109.040, 18.110.200**, and Chapters **18.112 and 17.18**, of the Heber City Municipal Code are **AMENDED** as shown in Exhibit 1.

BE IT ORDAINED by the City Council of Heber City, Utah, that Chapter **18.122** is **REPEALED** as shown in Exhibit 1.

This Ordinance shall take effect immediately upon passage.

ADOPTED and PASSED by the City Council of Heber City, Utah this 20th day of July, 2021, by the following vote:

	AYE	NAY
Council Member Heidi Franco	<u>X</u>	_____
Council Member Wayne Hardman	<u>X</u>	_____
Council Member Rachel Kahler	<u>X</u>	_____
Council Member Ryan PC Stack	<u>Absent</u>	_____
Council Member Mike Johnston	<u>X</u>	_____

APPROVED:

Kelleen Potter
Mayor Kelleen Potter

ATTEST: Mina N Cooke
RECORDER

Date: 7/20/2021



Date of First Recording: N/A

Exhibit 1

10.16.030 Unlawful Types Of Parking

In addition to types of stopping, standing or parking declared illegal in other sections of this chapter, it is illegal to park a motor vehicle under the following circumstances:

- A. No person shall park a vehicle on the public right-of-way for more than a consecutive seventy-two (72) hour period.
- B. No person shall park a vehicle on any street for the principal purpose of repairing or greasing a vehicle, except in emergency situations.
- C. No person shall leave or park a vehicle upon any portion of the street improvements between the back of the curb and the sidewalk.
- D. No person shall park a vehicle upon any street or roadway or public property or posted private property for the principal purpose of displaying such vehicle for sale or displaying advertising.
- E. Trailers weighing more than thirty-three thousand (33,000) pounds when en-route to City approved off-street parking. This exception does not apply to vehicles that carry corrosive, flammable or radioactive material.
- F. Parking on any public road facing oncoming traffic is unlawful; furthermore, parking in a manner in which the vehicles driver side door is curbside is unlawful.
- G. The Appeal Authority may grant approval for off-street parking. Before the Appeal Authority may grant or approve any such off-street parking, it must be shown that:
 - 1. The use will not substantially affect the peace, safety or residential appearance of the immediate neighborhood;
 - 2. Prohibition of the parking of trailers under this chapter must have created a substantial hardship upon the applicant or the potential user of such off-street parking and said hardship cannot be alleviated in some other reasonable and inexpensive and non-difficult manner;
 - 3. Special circumstances exist and if not for the granting of the privilege, the individual driver connected with the trailer would be substantially inconvenienced; and
 - 4. The parking area is not in the front yard of any lot. The Appeal Authority may also attach reasonable conditions or requirements to the grant of such approved off-street parking which the applicant or user must comply with as a condition of the grant or approval in order to preserve a safe and attractive residential environment. A time limit of not more than two years shall be attached to the exercise of any grant on approval , unless specifically extended by the action of the Appeal Authority after applicant has requested such an extension, which application may not be made sooner than ninety days before the end of the time limit set. Extensions may not exceed two years, but additional extensions may be requested. All extensions require the above notice, hearing and findings. Prior to any action granting of the privileged off-street parking, neighborhood home owners and occupants who might be affected by such action shall be notified of the hearing so that they have an opportunity to voice consent or protest . Notices shall be sent to at least those parties whose property border within three hundred feet of where the trailer would be parked.
- H. Except when under the direction of a law enforcement officer or authorized traffic controller.

12.30.040 Review Of Decision

Any owner of private real property who claims there has been a constitutional taking of their private real property shall request a review of a final decision of any officer, employee, board, commission, or council. The following are specific procedures established for such a review:

- A. The person requesting a review must have obtained a final and authoritative determination, internally, within the City, relative to the decision from which they are requesting review.
- B. Within thirty (30) days from the date of the final decision that gave rise to the concern that a constitutional taking has occurred, the person requesting the review shall file in writing, in the office of the City Recorder, a request for review of that decision. A copy shall also be filed with the City Attorney.
- C. The City Council, or an individual, or body designated by the City Council shall immediately set a time to review the decision that gave rise to the constitutional takings claim. The initial designee, until changed by resolution of the City Council, shall be the Appeal Authority and the Appeal Authority shall be the person responsible for setting the time for the review.
- D. In addition to the written request for review, the applicant must submit the following:
 - 1. Name of the applicant requesting review;
 - 2. Name and business address of current owner of the property, form of ownership, whether sole proprietorship, for-profit or not-for-profit corporation, partnership, joint venture or other, and if owned by a corporation, partnership, limited liability company or joint venture, name and address of all principal shareholders, partners, or members;
 - 3. A detailed description of the grounds for the claim that there has been a constitutional taking;
 - 4. A detailed description of the property taken;
 - 5. Evidence and documentation as to the value of the property taken, including the date and cost at the date the property was acquired if acquired within the past three years. This should include any evidence of the value of that same property before and after the alleged constitutional taking, the name of the party from whom purchased, including the relationship, if any, between the person requesting a review and the party from whom the property was acquired;
 - 6. Nature of the protectable interest claimed to be affected, such as, but not limited to, fee simple ownership, leasehold interest;
 - 7. Terms (including sale price) of any previous purchase or sale of a full or partial interest in the property in the three years prior to the date of application;
 - 8. All appraisals of the property prepared for any purpose, including financing, offering for sale, or ad valorem taxation, within the three years prior to the date of application;
 - 9. The assessed value of and ad valorem taxes on the property for the previous three years;
 - 10. All information concerning current leasees or lien holders or persons holding options to purchase said property;
 - 11. All listings of the property for sale or rent, price asked and offers received, if any, within the previous three years;
 - 12. All studies commissioned by the petitioner or agents of the petitioner within the previous three years concerning feasibility of development or utilization of the property;
 - 13. For income producing property, itemized income and expense statements from the property for the previous three years;
 - 14. Information from a title policy or other source showing all recorded liens or encumbrances affecting the property; and
 - 15. The City Council or its designee may request additional information reasonably necessary, in their opinion, to arrive at a conclusion concerning whether there has been a constitutional taking.
- E. An application shall not be deemed to be "complete" or "submitted" until the reviewing body/official certifies to the applicant, that all the materials and information required above, have been received by the City. The reviewing body/official shall promptly notify the applicant of any incomplete application.
- F. The City Council or an individual or body designated by them, shall hear all the evidence related to and submitted by the applicant, City, or any other interested party.

- G. A final decision on the review shall be rendered within fourteen (14) days from the date the complete application for review has been received by the City Recorder. The decision of the City Council or designee (initially the Appeal Authority) regarding the results of the review shall be given in writing to the applicant and the officer, employee, board, commission or council that rendered the final decision that gave rise to the constitutional takings claim.
- H. If the City Council or its designee fails to hear and decide the review within fourteen (14) days, the decision appealed from shall be presumed to be approved.

17.16.010 Required Procedures For Approval

The following steps or procedure must be followed in order to obtain approval of a subdivision:

- A. Application Submittal Deadline. All applications shall be made at least 16 (sixteen) calendar days before the next regular Development Review Committee (DRC) meeting. Applications must be complete in order to be considered to have met the submittal deadline.
- B. Staff Review. Staff will review the application and provide a written review to the applicant following the DRC meeting. Staff shall consider the following items in their review:
 - 1. Relationship of the proposal to the General Plan;
 - 2. Zoning of the proposed development;
 - 3. Third-party utility considerations;
 - 4. Roads and general transportation;
 - 5. Flood zones and potential flood hazards;
 - 6. Culinary water requirements;
 - 7. Pressurized irrigation requirements;
 - 8. Sanitary sewer requirements;
 - 9. Storm water system requirements;
 - 10. Park and Trail requirements;
 - 11. Capital improvement plans;
 - 12. Other items deemed necessary by the planning or engineering staff.
- C. Outsourcing of Plan Reviews. The City may outsource the review of any application to contracted consultants. Unless consultants are the primary reviewer for all applications, the City will notify the applicant that their application review will be outsourced. Outsourced reviewed will follow the provisions of the Staff Review above.
- D. Development Review Committee. The Development Review Committee (DRC) is an administrative committee consisting of staff from the City, local utilities, and other organizations as applicable. The role of the DRC is to review development applications for compliance with development standards, coordination between jurisdictions, utilities, and organizations as applicable, and meet with applicants to provide guidance and understanding of the requirements of their application. The DRC is not a Land Use Authority.
- E. Concept Plan Submission. Applicant prepares Concept Plan, makes application, pays fees, and submits concept plans prior to application submittal deadline. This applies to concept plans for commercial, industrial, and multiple-unit residential. Applicant shall provide electronic copies of the proposed concept plans in PDF format. Planning Staff shall deliver the copies to each Planning Commission member, engineering, public works, applicable utility agencies, school district, City fire official, postal service, police chief, City Manager, building official, UDOT (if applicable), and affected entities as required by Utah State Code;
- F. Concept Plan Approval. For Single Use Zones as defined by Section 18.16.010, the Planning Director, or its designee, is the Land Use Authority approving the Concept Plan, with appeals going to the Planning Commission. For Mixed Use Zones and Overlay Zones as defined by Section 18.16.010, the Planning Commission is the Land Use Authority, with appeals going to the City Council. Approval, disapproval or modification of the Concept Plan shall occur before the Preliminary Plan is allowed to be submitted. Prior to preliminary approval, the applicant shall be

given an informal list of what the Land Use Authority expects on the preliminary plans, including contour intervals and any special concerns. Concept approval does not guarantee final project approval;

- G. Preliminary Plan Submission. Applicant prepares preliminary plan and Preliminary Environmental Impact Assessment (see Section 17.20.020) and submits electronic copies in PDF format, makes application, and pays fees prior to application submittal deadline. Commercial projects are not required to submit Preliminary Plans;
- H. Preliminary Plan Approval. The Planning Commission reviews preliminary plan as per items discussed at concept approval and for compliance with the ordinance. The Planning Commission is the Land Use Authority for approving the Preliminary Plan, with appeals going to the City Council. If approval is given at this time, the applicant shall be given a list which has been revised from the one given at the concept stage. This list shall pertain to items the Planning Commission expects on the final plans. Preliminary approval does not guarantee final subdivision approval;
- I. Final Plat Submission. Applicant prepares and submits final plat, makes application, and pays fees prior to application submittal deadline. Final plat shall consist of items required at preliminary stage and by this ordinance in electronic PDF format. All commercial developments that don't involve a subdivision require the submission of a Final Plan for review and approval by the Planning Commission. Exception: On a single commercial building, built in an approved development or on a lot of record, the Zoning Administrator and City Engineer may give final approval based on direction from the Planning Commission given at the time of concept approval.
- J. Final Plat Approval. For Single Use Zones, the Planning Director, or its designee, is the Land Use Authority responsible for approving the final Plat, with appeals going to the City Council. For Mixed Use and Overlay Zones as defined by Section 18.16.010, the City Council is the Land Use Authority responsible for approving the final Plat as recommended by the Planning Commission, with appeals going to the Appeal Authority. For subdivisions which require variances as per Chapter 17.60, the City Council shall be the Land Use Authority, with administrative appeals going to the Appeal Authority and policy making appeals going to the District Court. The Land Use Authority reviews final plan and approves final plat if it is complete and if all requirements from preliminary plan approval are met or disapproves it. The final plat shall be in substantial compliance with the plans approved at preliminary stage. Planning Commission approval does not guarantee final subdivision approval; Final Plans shall not have a material departure from Preliminary approval. Any material departures regarding the rights and obligations of the parties shall require a modified Preliminary approval by the Land Use Authority.
- K. Recordation of Final Plat. Applicant records plat in office of County Recorder within one (1) year from the date receiving final approval and before selling or conveying any lots within the subdivision. Final plats not recorded within one (1) year from the date receiving Final approval shall be null and void unless physical construction has started or an extension has been requested and granted prior to the original plat expiration date. In cases where construction has started, plat approval shall automatically be extended for a second year from the date of the final approval. If physical construction has not started, applicants may request and be granted a one (1) year extension. However, if an extension is granted, the requirement to incorporate updated City standards, or reevaluate bonds or other assurances may be enforced as a condition of approval for the extension. Plat extensions are granted by the applicable Land Use Authority for Final Plats.

17.18 Property Line Adjustments

- A. Lot Line Adjustments. The Planning Director, or its designee, shall serve as the Land Use Authority for approving Lot Line Adjustments, as defined by LUDMA, with appeals going to the Appeal Authority.

- B. Plat Amendments. The Planning Director, or its designee, shall serve as the Land Use Authority for approving Plat Amendments, as described in Section 608 and 609 of LUDMA, with appeals going to the Appeal Authority.
 - 1. If a Public Hearing is required by LUDMA for approval of a Plat Amendment, then the City Council shall serve as the Land Use Authority, upon recommendation by the Planning Director or its designee, with administrative appeals going to the Appeal Authority and policy making appeals going to the District Court.

17.48.040 Small Subdivisions

- A. Whenever a small subdivision meeting the conditions as set forth in Section 17.12.010 of this chapter is proposed, a preliminary plan conforming to the requirements for preliminary plans as set forth in Section 17.20.020 shall be prepared and submitted to the planning commission for approval at least 28 (twenty-eight) days prior to the Planning Commission meeting. Before preparing and submitting the plans, the applicant shall meet with the Planning and Engineering departments to determine if any of the requirements set forth in 17.20.020 are not necessary to be submitted to the Planning Commission in order for it to make an educated decision. Staff will base its determination on the site conditions as well as surrounding conditions.
- B. Before the planning commission shall approve any such plan, all improvements required under Section 17.40.010 shall have been installed or assurances given to the city that the improvements will be installed without cost to the City as set forth in Chapter 17.52. Exception: The applicant may petition for and the Planning Commission may, upon recommendation from the Planning and Engineering Departments, waive any of the required improvements in 17.40.010 excluding 17.40.010 A1 (Potable Water), A2 (water and sewer mains and laterals), A3 (fire hydrants), B2 (hard-surfacing of streets) and C (utilities--except the Cable Television requirement may be waived). In determining whether or not to waive said requirements, consideration shall be given to conditions on site, conditions surrounding the site, the availability of improvements in the area, the practicality of constructing said improvements, the respective capital improvements plans for each improvement, and whether or not the waiver(s) substantially affect the General Plan of the City. A financial hardship shall not be considered by the Planning Commission as reason to grant a waiver.
- C. The Planning Director, or its designee, serves as the Land Use Authority approving Small Subdivisions (aka Lot Splits), with appeals going to the Appeal Authority. In the case of Small Subdivisions where a request is made for the waiver of improvements as per Subsection B above, the City Council shall serve as the Land Use Authority, with administrative appeals going to the Appeal Authority and policy making appeals going to the District Court.

18.08.110 Conditional Use

"Conditional use" means, generally, a use which requires approval of the planning commission, Appeal Authority or city council before the zoning administrator may issue a permit therefor, such as uses which require individual consideration of surrounding conditions and circumstances to carry out the intent and purpose of the land use plan. It is also a use for which a conditional use permit is required by this title.

18.08.580 Special Exception -- Conditional Use

"Special exception" or "conditional use" means a use which is not specifically permitted in a zone, such as an industrial use in a residential zone, but which is permitted as a special exception to this title subject to compliance with conditions prescribed by the Appeal Authority.

18.08.620 Variance

"Variance" means a waiver of specific regulations of this title granted by the Appeal Authority in accordance with the provisions set forth in this title for the purpose of assuring that no property, because of special circumstances applicable to it, shall be deprived of privileges commonly enjoyed by other properties in the same zone.

18.12.090 Zoning Administrator -- Powers And Duties

- A. It is the duty of the zoning administrator to inspect, or cause to be inspected, all buildings in the course of construction or repair. He shall enforce all of the provisions of this title, entering actions in the courts when necessary, and his failure to do so shall not legalize any act in violation of such provisions.
- B. Upon appeal to the Appeal Authority of any matters on which, said board is required to pass, the zoning administrator shall forthwith transmit all papers, records and other pertinent data pertaining to the appeal of the Appeal Authority as required by the terms of this title. The zoning administrator shall also refer the matters to the planning commission and governing body as set forth in this title.

18.12 Administration

- 18.12.010 Building Permit -- Required
- 18.12.020 Building Permit -- Application
- 18.12.030 Building Permit -- Accompanying Data
- 18.12.040 Building Permit -- General Compliance Required
- 18.12.050 Construction And Use -- Compliance With Application
- 18.12.060 Licensing Requires Compliance
- 18.12.070 Certificates Of Zoning Compliance
- 18.12.080 Zoning Administrator -- Appointment
- 18.12.090 Zoning Administrator -- Powers And Duties
- 18.12.100 Appeal Authority
- 18.12.110 Planning Commission – Powers and Duties
- 18.12.120 Amendment Of the Zoning Ordinance or Map
- 18.12.130 Small Lot Splits

18.12.100 Appeal Authority

A. Establishment of Appeal Authority.

1. The Mayor shall appoint the Appeal Authority with the advice and consent of the City Council. The Appeal Authority shall either be law trained or have significant experience with land use laws and the requirements and operations of administrative hearing processes.
2. The term of office shall be two years unless otherwise agreed upon in writing by both parties.
3. The Appeal Authority may be removed by the mayor for violation of this title or any policies and procedures adopted by the Planning Director following receipt by the Mayor of a written complaint filed against the Appeal Authority. Removal of the Appeal Authority shall follow the policies of At Will employees in the City's Personnel Policy.
4. The Mayor with the advice and consent of the City Council shall fill any vacancy. The person appointed shall serve for the unexpired term of the member whose office is vacant.

5. The Appeal Authority shall receive compensation based on an agreement with the City Manager.

B. Organization and procedures.

The Planning Director shall adopt policies and procedures, consistent with the provisions of this section, for processing appeals, variances and requests for reasonable accommodations for persons with disabilities, the conduct for such hearings, and for any other purpose considered necessary to properly consider these applications.

C. Notice of Decision.

1. Record of Final Decision. After hearing the evidence and considering the application, the Appeal Authority shall make its written findings and have them entered in the minutes.
2. Notice of Decision. Upon a decision by the Appeal Authority, a notice of decision shall be mailed to the applicant at the address or e-mail address given in the application. A notice of decision can be a new written notice, a copy of the administrative approval form signed by the Planning Director or designee, or a copy of the approved minutes. A decision by the approving authority is final at the time the notice of decision is issued in writing.

D. Powers and duties.

1. The Appeal Authority shall hear and decide:
 - a. Appeals from zoning decisions applying the zoning ordinance.
 - b. Variances from the terms of the zoning ordinance.
 - c. Requests for reasonable accommodations for persons with a disability.
2. The Appeal Authority shall not hear and decide:
 - a. Legislative Requests, including but not limited to the following:
 - i. Changes to uses in a zone
 - ii. Changes to Text, Maps, or Elements of the General Plan, Zoning Ordinance, or Municipal Code
 - iii. Variances to processes
 - b. Requests for a variance from, or to modify, agreements made by the City.

E. Appeals.

1. The applicant or any other person or entity adversely affected by a decision administering or interpreting the zoning ordinance may appeal that decision applying the zoning ordinance by alleging that there is error in any order, requirement, decision, or determination made by an official in the administration or interpretation of the zoning ordinance.
2. Any officer, department, board, or bureau of the City affected by the grant or refusal of a building permit or by any other decisions of the administrative officer in the administration or interpretation of the zoning ordinance may appeal any decision to the Appeal Authority.
3. Such appeal shall be taken within ten calendar days from the date of the action appealed from by filing with the officer from whom the appeal is taken and with the Appeal Authority a notice of appeal specifying the ground thereof.
4. The City Staff from whom the appeal is taken shall transmit to the Appeal Authority all papers constituting the record upon which the action appealed from is taken.
5. The person or entity making the appeal has the burden of proving that an error has been made.
6. An Appeal Authority's land use decision is a quasi-judicial act. The Appeal Authority shall find whether an error has been made. The Appeal Authority shall review the matter only using the information gathered on the record from the Land Use Authority's

decision and decision-making process. New information will not be considered. The Appeal Authority may affirm, reverse, or modify the action appealed from as it seems just and equitable and exercise all rights of any other officer or commission. The Appeal Authority shall:

- a. determine the correctness of the Land Use Authority's interpretation and application of the plain meaning of the land use regulations; and
 - b. interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application.
7. Only administrative zoning decisions applying the zoning ordinance may be appealed to the Appeal Authority. Appeals may not be used to waive or modify the terms or requirements of this title.

F. Variances.

1. Any person or entity desiring a waiver or modification of the requirements of this title as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the Appeal Authority for a variance from the terms of this title.
2. The Appeal Authority may grant a variance only if all five of the following conditions are met:
 - a. Literal enforcement of this title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this title.
 - b. There are special circumstances attached to the property that do not generally apply to other properties in the same zone.
 - c. Granting the variance is essential to the enjoyment of a substantial property right possessed by other properties in the same zone.
 - d. The variance will not substantially affect the general plan and will not be contrary to the public interest; and
 - e. The spirit of this title is observed and substantial justice done.
3. In determining whether or not enforcement of this title would cause unreasonable hardship under subsection (2) of this section, the Appeal Authority may not find an unreasonable hardship unless the alleged hardship is located on or associated with the property for which the variance is sought; and comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
 - a. In determining whether or not enforcement of this title would cause unreasonable hardship under subsection (2) of this section, the Appeal Authority may not find an unreasonable hardship if the hardship is self-imposed or economic.
4. In determining whether or not there are special circumstances attached to the property under subsection (2) of this section, the Appeal Authority may find that special circumstances exist only if the special circumstances:
 - a. Relate to the hardship complained of; and
 - b. Deprive the property of privileges granted to other properties in the same zone.
5. The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
6. Variances run with the land.
7. The Appeal Authority and any other body may not grant use variances.
8. In granting a variance, the Appeal Authority may impose additional requirements on the applicant that will:
 - a. Mitigate any harmful effects of the variance; or
 - b. Serve the purpose of the standard or requirement that is waived or modified.

G. District court review.

Any person adversely affected by any decision of the Appeal Authority may petition the district court for a review of the decision. Petitions for appeal to the district court shall be made within 30 days of the Appeal Authority's decision, or as otherwise outlined by Utah State Code (UCA 10-9a part 8 et seq.).

H. Stay of decision:

The Appeal Authority may stay the issuance of any permits or approvals based on its decision for thirty (30) days or until the decision of the district court in any appeal of the decision.

18.12.110 Planning Commission -- Powers And Duties

The planning commission shall have the following powers and duties with respect to this title:

1. The planning commission shall hear and decide request for amendments to this title. The planning commission may also act on its own initiative in considering and recommending amendments to this title. Before a favorable recommendation is given, however, it must be shown:
 1. The amendment will not be contrary to the land use plan;
 2. The amendment will not militate against the fulfillment of any other provisions of the comprehensive plan;
 3. The amendment will not decrease nor adversely affect the health, safety, convenience, morals, or general welfare of the public;
 4. The amendment will more fully carry out the intent and purpose of this title;
 5. That, balancing the interest of the petitioner with the interest of the public, both interests will be served better by adopting such an amendment. In considering a request for an amendment to this title or the zoning map, the planning commission may submit a recommendation for or against the request or it may recommend an alternate amendment.
2. To review, approve, disapprove, or approve subject to modifications, requests for permits to construct large scale developments;
3. Any other duty imposed on the planning commission under the terms of this title.

18.12.120 Amendment Of The Zoning Ordinance Or Map

1. The governing body may amend, change or modify any provision of this title or the zoning map provided:
 1. The proposed amendment or amendments have been submitted to the Planning Commission for its recommendations. The Planning Commission shall prepare and recommend amendments following a public hearing reasonably noticed for at least ten (10) calendar days. Unless the Planning Commission submits its recommendations within sixty days from receipt of the proposed amendment, the governing body may assume an affirmative recommendation;
 2. The governing body has held a public meeting on the proposed amendment reasonably noticed for 24 hours;
 3. The amendment will not be contrary to the Comprehensive Plan;
 4. The amendment will more fully carry out the intent and purpose of the Comprehensive Plan and this Title.

2. Notice of the Planning Commission hearing should also include written submittal of the proposed amendment to the City Manager, City Attorney, Chief of Police, Building Official, City Engineer, City Fire Official, and City Recorder, and must include notice to affected entities as required by Utah State Code, at least ten (10) days prior to the hearing for review and comments.
3. No material change in or departure from the recommendation of the planning commission can be made after such public hearing unless the change or departure be submitted to the planning commission for its consideration and recommendations. Upon receiving the reconsidered recommendations of the planning commission, the governing body may overrule the planning commission

18.12.130 Small Lot Splits

1. Where a parcel of land at the time of adoption of the ordinance codified in this Title is at least one and eight-tenths times as wide and one and eight-tenths times as large in area as required for a lot in the zone, the planning commission may permit the division of a parcel into two lots provided:
 1. Such division will not cause undue concentration of buildings;
 2. The characteristics of the zone in which the lot is located will be maintained;
 3. In the opinion of the planning commission, values in the area will be safeguarded;
 4. To meet and preserve the requirements of 1, 2, 3, the Planning Commission may impose certain restrictions. Those restrictions will constitute a covenant running with the land and shall be approved in writing by the owner and recorded against the property in the Wasatch County Recorder's Office.
2. Neighborhood Infill lots shall not be eligible for consideration pursuant to this Section. All Neighborhood Infill lots shall meet the minimum requirements of Section 18.83.040.

18.16.020 Boundaries Of Zones

Where uncertainty exists with respect to the boundaries of various zones, the following rules shall apply:

- A. Where the intended boundaries on the zone map are approximately street or alley lines, said streets or alleys shall be construed to be the zone boundaries;
- B. Where the indicated boundaries are approximately lot lines, said lot lines shall be construed to be the zone boundaries, unless otherwise indicated;
- C. Where land has not been subdivided into lots, the zone boundary shall be determined by the use of the scale of measurement shown on the map;

18.24.020 Permitted Uses

In order to accomplish the objectives and purposes of this title and to stabilize and protect the essential characteristics of the zone, the following regulations shall apply in the A-2 agricultural zone:

- A. Agriculture;
- B. The raising, care and keeping of animals and fowl in unlimited numbers, except for hogs in numbers exceeding twenty-five head;
- C. Barns, corrals, pens, coops and feed storage buildings for the keeping of animals and fowl and the storage of farm products;
- D. One-family dwellings and buildings accessory thereto when located on lots containing at least five acres;

- E. Home occupations subject to Chapter 18.08 of this title;
- F. Vegetable and fruit packing and processing plants, farm machinery storage beds, fur farms, plant nurseries and animal hospitals;
- G. Day care nurseries which have been approved by the State Division of Health and the State Welfare Department; boys' ranches subject to approval of the State Welfare Department;
- H. Rest homes subject to approval of the county health department and the State Welfare Department;
- I. Public parks and playgrounds, hunting and fishing reserves, wildlife sanctuaries and arboretums;
- J. Residential subdivisions in which all lots contain at least 20 acres of land subject to the requirements set forth in Title 17 of this code;
- K. Kennels, riding academies, beehives and fisheries;
- L. Fences, walls and hedges and railroad tracks;
- M. Water reservoirs, ponds, dams, water pumping plants and pipelines, water facilities, public utility buildings and structures (except power plants), flood control structures, transmission lines, substations; also sewage treatment plants subject to review and approval of the State Division of Health;
- N. Temporary buildings and yards for the storage of construction materials and equipment incidental and accessory to construction of uses otherwise permitted in the zone. A permit shall be valid for not more than one year and shall not be renewable for more than two successive periods of time at the same location;
- O. Schools, churches, monasteries and similar institutions;
- P. Cemeteries, public and private, subject to the laws of the state;
- Q. Golf courses containing at least ten acres. A golf club house may be permitted when part of a permitted golf course containing at least forty-five acres of land;
- R. Nursery schools, family day care, mini-day care, and day care centers if they meet the conditions set forth in Chapter 18.86.

18.28.030 Permitted Uses

The following uses shall be permitted in the C-2 commercial zone upon compliance with requirements set forth in this title:

- A. Beer parlors and alcohol-dispensing establishments;
- B. Electrical appliance shops (wholesale);
- C. Fraternity buildings, clubs, lodges;
- D. Funeral establishments, mortuaries and wedding chapels;
- E. Used car lots;
- F. Gymnasium or physiculture establishments;
- G. Home occupations;
- H. Hospitals;
- I. Household Pet Daycare as defined and regulated by Title 6 of this Code, provided all kennels are located indoors and each building containing kennels is located at least 400 feet from any residentially zoned property;
- J. Motels, cafes, food drive-ins, offices;
- K. Office buildings, clinics and public utility buildings;
- L. Parking lots, commercial;
- M. Pawn shops;
- N. Recreation vehicle courts subject to requirements set forth in Chapter 18.96 of this title;
- O. Retail establishments and service enterprises;
- P. Revival tents, temporary;
- Q. Schools and other public buildings;

- R. Secondhand stores;
- S. Gas stations;
- T. On-premises signs;
- U. Utility buildings and public buildings;
- V. Wholesale establishments with stock on premises but excluding establishments whose principal activity is that of a storage warehouse;
- W. Nursery schools, family day care, mini-day care, and day care centers if they meet the conditions set forth in Chapter 18.86.
- X. One-family dwellings located one story above or below the ground floor level if (a) each dwelling unit contains at least 500 square feet of living space and (b) in addition to the parking required by Section 18.72 for the commercial portion of the building, at least one parking place is assigned to and available for each such dwelling unit (this provision, as to said individual units, supersedes section 18.72.020 N 1).
- Y. The keeping of grazing animals as regulated by Section 18.68.135.
- Z. Craftsman Industrial Uses.
 - 1. Location. Craftsman Industrial Uses shall be located in areas defined as Project Type B in the C-2 & C-4 Design Criteria (south of 1200 South in the C-2 Commercial Zone).
 - 2. Craftsman Industrial Use Limitations. Craftsman Industrial uses shall:
 - 1. Not produce offensive noise, vibration, fumes, smoke, gas, light, dust or other particulate matter, odor, heat, humidity, glare, magnetic or electrical interference or other objectionable impacts extending beyond the property line;
 - 2. Occur entirely within a building;
 - 3. Be limited to a maximum of 20,000 square feet gross floor area per building; and
 - 4. Screen outdoor storage as viewed from the public street with a sight obscuring fence and landscaping.
 - 3. Permitted Craftsman Industrial Uses. Such uses involve small scale fabrication, manufacturing, production, assembly and repair. Resulting products are intended for end users and consumers rather than as intermediates for use by other industries. Craftsman Industrial Uses are limited to the following uses; any use not specifically mentioned is prohibited:
 - 1. Art, Pottery, Ceramics & Related Products;
 - 2. Athletic and Outdoor Recreation Goods, Toys;
 - 3. Auto Mechanic, Auto Body and Fender Shops, Auto Painting;
 - 4. Apparel, Cloth, Textiles, Leather Products, Shoe, Boots;
 - 5. Bakery & Confections, Canning & Preserving Food, Dairy Products, Meat & Fish Products (no Processing);
 - 6. Beverages, including Alcohol, Soft Drinks, Coffee Botanical Products;
 - 7. Commercial Scale Copying & Printing, Engraving, Publishing & Allied Industries;
 - 8. Construction Special Trade Contractors;
 - 9. Electronics Assembly, Electrical Fixtures, Assembly of Appliances from previously prepared parts;
 - 10. Fabricated Metal Products, Welding;
 - 11. Household Textiles, Upholstery, Furniture & Fixtures, Woodworking;
 - 12. Jewelry, Watches, Clocks, & Silverware;
 - 13. Musical Instruments & Parts;
 - 14. Signs & Advertising;
 - 15. Smithing, Taxidermy; and
 - 16. Stone and Monument.

18.40.020 Permitted Uses

The following uses shall be permitted in the C-4 general commercial zone:

- A. Any use permitted in the C-3 zone, except Household Pet Daycare;
- B. Accessory buildings;
- C. Auction houses;
- D. Caretaker dwelling;
- E. Fences and walls;
- F. Hay, grain and livestock feed sales establishments;
- G. Manufacturing, compounding and processing;
- H. Motels, cafes and filling stations;
- I. Pasturing of animals;
- J. Plumbing shops, carpenter shops, hardware and retail lumber yards;
- K. Recreation vehicle courts subject to requirements in Chapter 18.92 of this title;
- L. Signs, accessory and non-accessory;
- M. Used car sales lots and farm equipment sales establishment;
- N. Warehouses, trucking and storage buildings;
- O. Welding and sheet metal shops;

18.42.030 Permitted Uses

The following uses shall be permitted in the Mixed-Use Residential Commercial Zone upon compliance with requirements set forth in Title 18:

- A. Department, discount and food stores;
- B. Stores selling general merchandise furniture, electronics, appliances and home furnishings, baby supplies, jewelry, toys, video games, pet supplies, floral, garden and patio products, hair salon, apparel, footwear, sewing supplies, sporting goods, health and beauty products, prescription drugs, books, videos, media, copies, photography, art and office supplies, stationary, hobbies and crafts, auto and equipment parts, hardware lumber and home improvement supplies;
- C. Restaurants, private clubs and eating establishments;
- D. Offices, clinics, schools, day care facilities and public buildings;
- E. Banking or financial institutions;
- F. Entertainment and recreation uses;
- G. Miscellaneous retail sales;
- H. Mixed use residential-commercial development, including retirement and residential development, attached and detached multi-family and single family dwellings, condominium and townhouse developments, apartments, and planned unit developments, all subject to the residential standards in Section 18.42.100;
- I. Engraving and printing establishments;
- J. Fitness centers;
- K. Funeral establishments, mortuaries and wedding chapels;
- L. Automobile sales;
- M. Gymnasium or physiculture establishments;
- N. Home occupations;
- O. Hospitals;
- P. Hotels, inns, which may include a restaurant and conference meeting rooms, motels, cafes, food drive-ins, and reception centers;
- Q. Office buildings, medical, optical and dental offices and clinics;
- R. Parking lots, commercial;
- S. Retail establishments and service enterprises;

- T. Secondhand stores;
- U. Convenience service stations, auto parts sales and service and repair facilities, car wash and detail shops;
- V. On-premises signs;
- W. Wholesale establishments with stock on premises but excluding establishments whose principal activity is that of a storage warehouse; and
- X. The keeping of grazing animals as regulated by Section 18.68.135.

18.42.110 Development Agreements

Vacant buildings encompassing a substantial square footage require more intensive municipal services, including, but not limited to fire/police protection, community development, and code enforcement. All developments which contain buildings 60,000 square feet or larger shall enter into a vacancy, development and maintenance agreement between the property/building owner and Heber City.

- A. Dark Store/Vacancy Agreement. Because developments in this Zone tend to be a gateway to the City, and have significant impact on the community as a whole as well as the accompanying retail, commercial and retail entities and locations within and surrounding such developments, should these developments or buildings be vacated, the impact on the City would be substantial and dramatic. Therefore owners of such developments and buildings shall specifically, in addition to any other requirements within this Chapter and Title 18, be subject to and adhere to the following.
 - 1. A commercial building permit application shall not be approved for the construction of a large retail establishment over 60,000 square feet until a Vacancy Agreement has been approved by the Planning Commission and City Council. The Vacancy Agreement shall be signed by the City and the developer and will apply to all future owners, lessees, and lessors of the site and/or building. The agreement shall contain the following requirements in this Section a, and Section b below:
 - a. The property owner shall have the first right of refusal as set forth in a recorded agreement, to redevelop the building and re-market the property after one year of vacancy. However, owner shall only have one year from owner's election of such a right to secure such redevelopment or remarket the building.
 - b. No agreement associated with the proposed property, premises and structures shall contain "non-compete" clauses or other such language that would allow a former occupant of a vacated building to prohibit or limit the occupancy and use of the building and site or redevelopment or reuse of the building and site which the former occupant has vacated. However, such language may be used to restrict competition among occupants within a proposed property.
 - c. In the event that the facility is vacated, the owner, within twelve months of vacancy shall submit to the Planning Commission and City Council a plan for the reuse of the facility. The time limit may be extended by the City Council. If unable to provide a plan which is acceptable to the City, the City may utilize a Redevelopment Agency or other mechanism to take whatever action is permitted by law or this Chapter to assure appropriate redevelopment, reuse or demolition of the property and facility.
 - d. A development agreement provision citing conditions of approval and other reasonable agreements as necessary to minimize the negative impact of a potential dark store.
- B. Maintenance Plan. Any vacant building and the accompanying exterior site shall be maintained and secured as if they were occupied.
 - 1. A commercial building permit application shall not be approved for the construction of a large retail establishment over 60,000 square feet until a plan and agreement, in the form of a development and maintenance agreement, to maintain the upkeep of the exterior

building improvements, landscaping, parking lot and site improvements and litter removal has been approved by the Planning Commission and City Council. Failure to comply with the maintenance plan shall be deemed to constitute a public nuisance and may be abated or prosecuted as a nuisance pursuant to Chapter 8.04 of the Heber City Code.

2. Said proposed plan and agreement shall include provisions that require the owner to reimburse the City any costs incurred by the City for fully and completely maintaining a building for any period of vacancy after a 90-day vacancy grace period for a building greater than 60,000 square feet, in the event the Owner does not so maintain. .
 3. A cash bond shall be posted prior to issuance of a building permit that will cover maintenance or redevelopment of the site in the event of the owner failing to do so. The amount will be determined by the Planning Commission and City Council, but will in no event initially exceed \$5,000.00 monthly, and thereafter any increases shall not exceed the Consumer Price Index guidelines.
 4. A building shall not be permitted to be dark for a period longer than 2 years. In the event of a store being dark, the City may, but not be limited to, utilize a Redevelopment Agency or other mechanism to take whatever action is permitted by law, the provisions of this Title, or the provisions of the development and maintenance agreement to assure appropriate redevelopment or reuse of the facility.
 5. In the event that a building is vacant for a period longer than three months, the record owner shall re-rent, re-lease or resell the building and the property surrounding said building, using all commercially reasonable measures and efforts available. Owner shall maintain said building pursuant to the requirements of the development and maintenance agreement above referenced as if the building and property were occupied and open for business.
 6. If, in the event that the owner is unable to re-let, re-lease, or resell the building and property within a two (2) year period from vacancy, then owner shall, at the option of the City, demolish the building and reclaim the property to a safe condition as originally presented before development.
- C. Enforcement and Remedies. In the event that a building is vacant for a period longer than three months, the City shall, in addition to all other remedies available or permitted by ordinance, statute, or the requirements of any development and maintenance agreement associated with said building or property, have the option of the following remedies:
1. If the Zoning Administrator, or his or her designee, determines that any provision of this Chapter is being violated and immediate enforcement action is not necessary under the circumstances, the Zoning Administrator shall provide a written notice of violation to the property owner or any other person determined to be responsible for the violation. Such written notice of violation shall indicate the nature of the violation, the action necessary to correct the violation, the warning period established before further enforcement action or penalties, and the potential enforcement action and/or penalties to be imposed for failure to cure the violation within the established warning period. Such notice of violation shall serve to start the warning period.
 2. Unless otherwise determined by the Zoning Administrator, the warning period for correction of violations set forth in the notice of violation shall be ten (10) days from the receipt of the notice of violation. If the violation remains uncured after expiration of the warning period, the Zoning Administrator shall pursue further enforcement action as deemed appropriate in accordance with the provisions provided herein. The Zoning Administrator is authorized, in his or her discretion, to extend the warning period, not to exceed thirty(30) days, if the Zoning Administrator determines good cause exists for such extended warning period and the extension will not create or perpetuate a situation imminently dangerous to life or property. Any such extension shall require written agreement by the property owner or person responsible for the violation to remedy the violations within a set time frame and to comply with any and all conditions of extension

as required by the Zoning Administrator. A request for extension shall be filed in writing by the property owner or person responsible for the violation prior to the expiration of the ten (10) day response period. In the case of a violation involving either continuing construction or development, or an emergency situation, as reasonably determined by the Zoning Administrator, the City may use the enforcement powers and remedies available to it under this Chapter, or the remedies contained in Chapter 18. of the Heber City Code, without prior notice or notice of violation, in such case, the Zoning Administrator shall send the notice to the same parties simultaneously with the beginning of enforcement action.

3. Any building or structure set up, erected, constructed, altered, enlarged, converted, moved, or maintained; or any land, building, or premises used contrary to the provisions of this Chapter is hereby declared to be unlawful and a public nuisance. The City Attorney, Prosecutor or other authorized legal counsel may commence action or proceedings for the abatement, removal, and enjoinder thereof in the manner provided by law. The City Attorney, Prosecutor or other authorized legal counsel may also take such other steps and may apply to such court as may have jurisdiction to grant such relief as will abate and remove such building or structure, and restrain and enjoin any person, firm, or corporation from setting up, erecting, building, maintaining, or using any building, structure, or property contrary to the provisions of this Chapter.
4. If any violation of this Chapter remains uncured after issuance of a notice of violation and expiration of the warning period, a citation of civil penalties may, in addition to any other applicable remedies associated with this Chapter or those available pursuant to the City Code, be issued to the property owner or other person determined to be responsible for the violation in accordance with the notice of violation.
5. The civil penalty to be imposed for any given violation shall be imposed in accordance with the civil penalties fee schedule adopted by the City. Penalties shall be provided on a graduated scale providing for the first and recurring violations. If a violation is corrected but reoccurs on the same property within one year from the imposition of any civil penalty, any subsequent violation within such one year period shall subject the person to the recurring violation penalty. Civil penalties may not be imposed for a civil violation that occurs in conjunction with another criminal violation as part of a single criminal episode that will be prosecuted in a criminal proceeding.
6. Any person having received a citation of civil penalties may request a hearing before a hearing officer by filing a written application for hearing. Such request for hearing shall be filed prior to the due date for the civil penalties. The hearing shall be held in accordance with the hearing procedures set forth in Title 18 of the Heber City Code.
7. All civil penalty hearings shall be held as a public meeting with business transacted during regularly scheduled hours. All civil penalty hearings shall provide for due process for the parties and shall be recorded or otherwise documented so that a true and correct transcript may be made of the proceedings.
8. Any person aggrieved of the hearing officer's determination regarding the imposition of civil penalties or a Zoning Ordinance violation may appeal such final administrative determination to the Appeal Authority in accordance with the appeal procedures set forth in Title 18 of the Heber City Code.
9. The City may use any lawful means available to collect any unpaid penalty and fees imposed under this Chapter, including costs and reasonable attorney's fees.
10. The procedures set forth herein regarding notice and imposition of civil penalties is one of many enforcement options available to the Zoning Administrator and is not intended to be an exclusive or required remedy.
11. If any violation of this Chapter remains uncured after issuance of a notice of violation and expiration of the warning period, a criminal citation may be issued to the property owner

or other person determined to be responsible for the violation in accordance with the notice of violation. All criminal citations for Zoning Ordinance violations shall be issued by the City Police Department in accordance with applicable criminal procedures for issuance of a criminal citation.

12. The criminal penalty for violations of this Chapter is a class C misdemeanor subject to such fines and incarceration as set forth by Utah law.
13. The Zoning Administrator, or his or her authorized designee, is authorized to inspect buildings and structures in the course of construction, modification, or repair and to inspect land uses to determine compliance with the provisions of this Chapter.
14. The Zoning Administrator, or his or her authorized designee, shall have the right to enter any building or property for the purpose of determining compliance with the provisions of this Title. Such right of entry shall be exercised only at a reasonable hour. In no case shall entry be made to any building in the absence of the owner or tenant thereof without consent of the owner or tenant, or a written order of a court of competent jurisdiction.
15. It shall be unlawful for any person to interfere with lawful enforcement activities of authorized City personnel.
16. In addition to the enforcement powers specified in this Chapter, the City may exercise any and all enforcement powers granted to it by Utah law, as may be amended from time to time.
17. Nothing in this Chapter shall prohibit the continuation of previous enforcement actions, undertaken by the City pursuant to previous and valid resolutions, agreements, ordinances, and laws.
18. Except as otherwise provided herein for criminal or civil proceedings regarding zoning enforcement actions, any person adversely affected by a final decision of the Zoning Administrator regarding the provisions of this Chapter may appeal that decision to the Appeal Authority as provided in Title 18 of this Municipal Code.

18.44.020 Permitted Primary Uses

The following buildings, structures and uses of land shall be permitted in the I-1 Industrial Zone upon compliance with requirements as set forth in this Section:

- A. Accessory buildings and parking lots incidental and accessory to other permitted uses;
- B. Agriculture, farm machinery storage sheds, vegetable and fruit packing and processing plants, and livestock raising;
- C. Airport and associated activities;
- D. Earthmoving and equipment storage, gas and oil storage facilities, public buildings and public utility buildings, craft shops, and accessory signs;
- E. Fences, walls and hedges;
- F. Manufacturing, compounding, processing, packaging, fabrication and warehousing of goods and materials, except the processing of animal byproducts and livestock feed yards, and except steel manufacturing plants, oil refineries, wallboard manufacturing and similar establishments which emit offensive fumes, smoke, noise, dust, odor, etc.;
- G. Retail commercial uses and cafes; however, no retail commercial transaction nor business may be conducted within a storage shed.
- H. Scenic railroads and railroad maintenance yards;
- I. Water wells, utility transmission lines, dams, pumping plants, power plants, sewage treatment plants subject to review and approval of the State Division of Health;

- J. Commercial storage sheds; however, no commercial transaction nor business may be conducted within any storage shed.

18.51.050 Setbacks

In the R-14 Zone, the following setback requirements shall apply:

- A. Front Setback. All buildings and structures shall be set back at least thirty feet from the front lot line;
- B. Side Setback. All dwellings shall be set back so that the total of both side setbacks is not less than twenty four feet, with no side being closer than 10 feet, except on corner lots. On corner lots, the side setback from any street shall not be less than thirty feet.
- C. Rear Setback. For interior lots, all dwellings and other main buildings shall be set back from the rear property line a distance of at least thirty feet. For corner lots, all dwellings and other main buildings shall be set back from the rear property line a distance of at least thirty feet, except that for dwellings having an attached garage or carport, the setback shall not be less than twenty feet.
- D. Accessory Building Setbacks. Accessory buildings shall follow the setbacks and requirements outlined in Section 18.68.060 Accessory Buildings..

18.63.020 Permitted Uses

The following uses are permitted in the RA-I Residential-Agricultural Zone.

- A. Agriculture;
- B. The raising, care and keeping of farm animals and fowl for family use and consumption. Animals shall be allowed on a point system. Each one-acre acre shall be allotted 50 points. Animals being kept will be given points as follows:
 - 1. Large animals such as horses, cows, llamas, pigs, or ostriches, but no more than 5 pigs shall be permitted for each parcel of property.--20 points per animal;
 - 2. medium animals such as sheep or goats, but not including pigs--10 points per animal;
 - 3. small animals such as chickens, geese, rabbits, pheasants or pigeons, but not including pigs --2 points.
- C. Barns, corrals, pens, coops and feed storage buildings for the keeping of animals and fowl and the storage of farm products;
- D. Bed & Breakfasts as regulated by Section 18.108.034, not exceeding twelve guest rooms;
- E. One-family dwellings and buildings accessory thereto when located on lots containing at least five acres;
- F. Home occupations subject to Chapter 18.08 of this title;
- G. Rest homes subject to approval of the County Health Department and the State Welfare Department;
- H. Public parks and playgrounds, hunting and fishing reserves, wildlife sanctuaries and arboretums;
- I. Public buildings such as fire and police protection, libraries, community buildings, etc.;
- J. Kennels, veterinary and animal hospitals, all without outside runs;
- K. Riding academies, beehives and fisheries;
- L. Fences, walls and hedges and railroad tracks;
- M. Water reservoirs, ponds, dams, water pumping plants and pipelines, water facilities, public utility buildings and structures (except power plants), flood control structures, transmission lines, substations; also sewage treatment plants subject to review and approval of the State Division of Health;
- N. Temporary buildings and yards for the storage of construction materials and equipment incidental and accessory to construction of uses otherwise permitted in the zone. A permit shall be valid for

not more than one year and shall not be renewable for more than two successive periods of time at the same location;

- O. Schools, churches, monasteries and similar institutions;
- P. Cemeteries, public and private, subject to the laws of the state;
- Q. Golf courses containing at least ten acres. A golf club house may be permitted when part of a permitted golf course containing at least forty-five acres of land;
- R. Nursery schools, family day care, mini-day care, and day care centers if they meet the conditions set forth in Chapter 18.86;
- S. Permitted Accessory Uses: Accessory uses and structures are permitted in the RA-1 Residential-Agricultural Zone, provided they are incidental to, and do not substantially alter the character of, the permitted principal use or structure:
 - 1. Accessory buildings such as garages, carports, greenhouses, gardening sheds, recreation rooms and similar structures, which are customarily used in conjunction with and are incidental to a principal use or structure.
 - 2. Swimming pools and incidental bathhouses.
 - 3. Storage of materials used for the construction of a building, including a temporary contractor's office and/or toolshed; provided, that such uses are on the building site; and provided, further, that such use shall be for only the period of construction and thirty (30) days thereafter.
 - 4. Barns, corrals, machine sheds and outdoor arenas that are noncommercial.

18.64.020 Permitted Uses

The following buildings, structures and uses of land shall be permitted in the RA-2 residential-agricultural zone upon compliance with requirements as set forth in this title:

- A. Accessory signs not exceeding fifteen square feet in area pertaining to the sale of property or produce raised on the premises; also, nameplates not exceeding two hundred sixty-six square inches in area;
- B. Agriculture;
- C. Barns, corrals, pens, coops, shed and feed storage buildings for the keeping of animals and fowl and the storage of farm products, provided uses for the care and keeping of livestock and fowl are located at least one hundred feet distant from any existing dwelling and one hundred feet from the front property lines; also, small animal hospitals without outside runs;
- D. Cemeteries, public and private, subject to the laws of the state;
- E. Rest homes.
- F. Farm machinery and farm products, storage sheds;
- G. Fences, walls and hedges and railroad tracks;
- H. Golf courses containing at least ten acres. Golf clubhouses may be permitted when part of a permitted golf course contains at least forty-five acres of land;
- I. Home occupations, subject to conditions set forth in Chapter 18.108 of this title, and nursery schools, family day care, mini-day care, and day care centers if they meet the conditions set forth in Chapter 18.86;
- J. One-family dwellings and buildings accessory thereto;
- K. The raising, care and keeping of farm animals and fowl for family use and consumption on parcels one-half (1/2) acre and larger. Animals shall be allowed on a point system. Each one-half (1/2) acre shall be allotted 50 points. Animals being kept will be given points as follows:
 - 1. Large animals such as horses, cows, llamas, pigs, or ostriches, but no more than 5 pigs shall be permitted for each parcel of property.--20 points per animal;
 - 2. medium animals such as sheep or goats, but not including pigs--10 points per animal;
 - 3. small animals such as chickens, geese, rabbits, pheasants or pigeons, but not including pigs --2 points.

- L. Schools, churches, public parks and playgrounds, arboretums and public buildings;
- M. Temporary buildings and yards for the storage of construction materials and equipment incidental and necessary to construction of uses otherwise permitted in the zone;
- N. Water reservoirs, ponds, dams, water pumping plants and pipelines, flood control structures, public utility buildings (except power plants), water wells, utility transmission lines and substations, sewage treatment plants subject to review and approval by the State Division of Health;
- O.

18.68.505 Review And Approval

The granting of permits and decisions relating to the administration of the provisions of Chapter 18.68 rests with the Heber City Planning Commission, with appeals going to the Appeal Authority.

18.72.030 Parking Space Requirements -- Designated

The following required off-street parking spaces for the particular use are minimum requirements:

- A. Banks, professional offices and other business buildings not specifically mentioned elsewhere in this section shall have one parking space per two hundred square feet of office floor area;
- B. Boardinghouses and bachelor dwellings shall have one parking space for each one hundred square feet of floor space devoted to bedrooms or one space for each two persons domiciled in the premises, whichever is greater;
- C. Churches shall have one parking space per three seating spaces in the main assembly room;
- D. Commercial recreational uses shall have one parking space per two patrons, based on the design capacity of the facility;
- E. Convalescent, nursing and other institutions shall have one visitor parking space per three patient beds, plus one parking space for each employee at work in the home during daylight hours;
- F. Drive-ins (retail) shall have at least twelve off-street parking spaces or sufficient off-street parking spaces to accommodate all patrons or customers, whichever is greater. No patron or customer may be served in automobiles which are parked on public streets;
- G. Government buildings shall provide at least three (3) parking stalls per 1,000 square feet of floor area;
- H. Hospitals shall have one visitor parking space per two patient beds, plus one parking space for each employee at work in the hospital during daylight hours;
- I. Hotels and motels shall have one parking space per room or suite, plus one parking space for each employee at work on the premises during daylight hours;
- J. Industrial, manufacturing and wholesale establishments shall have one parking space per two employees based on the largest shift;
- K. Medical clinics shall have four parking spaces per staff doctor, plus one parking space for each non-doctor employee at work on the premises during daylight hours;
- L. Mortuaries or funeral parlors shall have thirty parking spaces or one space for each twenty-five square feet of floor space in all assembly rooms, whichever is greater;
- M. Private clubs and lodge halls shall have one parking space per two persons based on the design capacity of the facility;
- N. Residential structures, not including boardinghouses and roominghouses and bachelor dwellings, shall have parking spaces per dwelling units as follows:
 - 1. One-family dwellings and mobile homes, two spaces;
 - 2. Two-family dwellings, four spaces;
 - 3. Multiple-family dwellings, two spaces per dwelling unit, which spaces shall be located on the side yards or rear yard or said lot.
 As a means of encouraging the occupants of multiple dwellings to use the required off-

street parking space in preference to on-street parking space, entrances to buildings containing multiple dwellings shall be provided in locations that are as direct and convenient to the required off-street parking spaces as are the fronting streets;

- O. Restaurants, taverns and lounges shall have one parking space per two hundred square feet of floor area;
- P. Retail stores, personal service shops and other business buildings not specifically mentioned elsewhere in this section shall have parking space at the rate of five spaces per one thousand square feet of floor area;
- Q. Auditoriums, sports arenas and places of assembly shall have one parking space per two people;
- R. Uses Not Mentioned. The required off-street parking for any building, structure or use of land of a type not listed in this section shall be determined by the Planning Commission. The Planning Commission shall be guided by comparison with the requirements for similar uses which are listed;
- S. Day Care facilities shall have one (1) parking space for each employee plus one (1) loading/unloading space for every 20 people, or portion thereof enrolled. Loading space requirement may be eliminated if there is a circular drive-way.
- T. Theaters shall have one parking space per four seats;
- U. Bowling Alleys shall have four (4) parking stalls per lane.
- V. C-3 Central Commercial Zone Parking. Retail, office restaurant and government uses in the C-3 Central Commercial Zone shall have at least three (3) spaces per one thousand square feet of floor space;
- W. One-half (1/2) of available angled on-street parking along a parcel's frontage may be counted towards the requirements for meeting the off-street parking requirements for uses within the C-2 and C-3 Commercial Zones.

18.80.020 Mobile Home Placement Restricted

It is unlawful to place a mobile home on any lot or parcel of land in an area covered by the zoning map and to use the same for human habitation except in compliance with one or more of the following conditions:

- A. When temporarily located on a lot on which a building is being constructed, provided the mobile home is connected to approved water and sewer facilities and is not located thereon, for more than one year from the date of the issuance of the building permit for the buildings;
- B. When placed on a licensed mobile home park;
- C. When placed on a zoning lot that complies with regulations of the zone in which the mobile home is located provided;
 - 1. The mobile home and site comply with the use, width, location, height, size of building and special provision requirements for structures within the zone,
 - 2. The mobile home complies with the building code of the city,
 - 3. The mobile home is placed upon a permanent foundation, and
 - 4. The mobile home has been approved by the Appeal Authority as a moved-in building as provided for in Section 18.108.070 of this title.

18.103.030 Interpretation

In interpreting and applying the provisions of this Chapter, the sign regulations contained herein are declared to be the maximum allowable for the purposes set forth. If the Zoning Administrator determines that an application needs further interpretation, he may request Planning Commission review of the proposal..

18.103.050 Enforcement

Any sign not expressly allowed by this Ordinance is prohibited. The Zoning Administrator or his authorized representatives shall be vested with the duty of enforcing the Chapter and in performance of such duty, shall be empowered and directed to:

- A. Issue permits. To issue permits to construct, alter, or repair signs which conform to the provisions of this Title. The expiration date for such permits shall be 180 days in conjunction with building permits.
- B. Determine conformance. To ascertain that all signs, constructions, and all reconstructions or modifications of existing signs are built or constructed in conformance with the Land Development Code by conducting:
 1. Initial Inspection After Construction. The Chief Building Official, under the direction of the Zoning Administrator, may make an initial inspection upon the completion of construction, erection, re-erection, or remodeling of any sign for which a permit has been issued and an inspection request is made. This shall also include the inspection of temporary electrical signs.
 2. (If Necessary) Re-Inspection. The Zoning Administrator or his authorized representative may make a reinspection of any sign for which a permit was issued but which upon primary inspection was not built in complete compliance with the regulations of this chapter.
- C. Legal Action. The Zoning Administrator shall be empowered to institute any appropriate action or proceeding in any case where any sign is illegally erected, constructed, reconstructed, altered, repaired, converted, or maintained, or in any case where any sign is used in violation of any City Ordinance including, but not limited to the Land Development Code by:
 1. Issue Notices of Violations, Citations, and Information. The Zoning Administrator or his designee may issue a written notice of violation to the person having charge or control or benefit of any sign found to be unsafe or dangerous or in violation of this code, particularly when the City is contemplating removal of said sign. Such official may also issue criminal citations and swear to information against violators.
 2. Abate and Remove Unsafe or Dangerous Sign. If an unsafe or dangerous sign is not repaired or made safe within five working days after giving said notice, the Zoning Administrator may at once abate and remove said sign, and the person having charge, control, or benefit of any such sign shall pay to Heber City within 30 calendar days after written notice is mailed to such person the costs incurred in such removal.
 3. Abate and Remove illegal Sign.
 - a. If a permanent sign installed without a permit, or otherwise illegal as defined by this Code, is not made conforming within 30 calendar days after written notice has been given, the Zoning Administrator may at once abate and remove said sign. The person responsible for any such illegal posting shall be liable for the cost incurred in the removal thereof and the City is authorized to effect the collection of said cost.
 - b. If a temporary sign posted upon private property has been installed without a permit or is otherwise illegal as defined by this Code and after written notice it has not been made conforming after 72 hours either through removal of the temporary sign or by obtaining a temporary sign permit, the Zoning Administrator may at once abate and remove said temporary sign or, in the alternative, use all available legal means to have the sign removed, including but not limited to criminal or civil action with the appropriate court. The person responsible for any such illegal posting shall be liable for the cost incurred in the removal thereof and the City is authorized to effect the collection of said cost.

- c. Any sign posted upon public property as defined in this Chapter may be removed by the City. Notwithstanding the foregoing, the sign, though removed, cannot be destroyed in a period less than thirty [30] days from the date of removal. In no case shall the failure to remove said signs constitute approval by the City of the illegal placement of the sign.
- 4. Abate and Remove Non-Maintained, Abandoned, or Sign Identifying a Discontinued Use. The Zoning Administrator shall require each non-maintained, abandoned, or sign identifying a discontinued use to be removed from the building or premises when such sign has not been repaired or put into use by the owner, person having control or person receiving benefit of such structure within 45 calendar days after written notice of non-maintenance, abandonment or discontinuance is given to the owner, person having control, or person receiving benefit of such structure.
- D. Right to Appeal. Any person who has been ordered to alter or remove any sign, or any person whose application for a sign permit has been denied because of conflict with regulations stated herein, may appeal to the Appeal Authority by serving a written notice to the Zoning Administrator within 10 working days of the order or denial. An applicant may also appeal to the Appeal Authority an alleged error by the Zoning Administrator or staff.

18.103.060 Nonconforming Signs

- A. Previous Illegally Placed Signs. Previous illegal signs shall not be grandfathered in under this Chapter.
- B. Regulation, Containment, and Elimination. In order to minimize confusion and unfair competitive disadvantage to those businesses which are required to satisfy the current sign ordinance standards, the City intends to apply firm regulation of existing nonconforming signs with a view to their eventual elimination. This goal shall be achieved by strictly construing limits on change, expansion, alteration, abandonment, and restoration. Excluding normal maintenance and repair, a nonconforming sign shall not be moved, altered (including face changes) or enlarged unless it is brought into complete compliance with this Chapter. The following alterations are exempt from this provision: (1) Copy changes in nonconforming permanent signs which were originally approved by the City with a changeable copy feature; and (2) Existing non-compliant pole signs that are non-compliant because of height, area, or setback, but not non-conforming pole signs which project over a property line, may be altered but shall be required to come into compliance with the current height requirements when altered but may retain the original area of the existing sign.
- C. Abandonment. Within 45 calendar days after vacation of an existing business, any on-site nonconforming signs must be removed or brought into compliance by the property owner. If removal does not occur, Heber City may have the entire nonconforming sign (both face and structure) removed through the processes specified in Section 18.103.050 C. An abandoned sign may not regain any legal nonconforming status later, even if the original business re-occupies the property.
- D. Special Exceptions. Upon appeal by the sign owner or business, the Appeal Authority is empowered to grant a Special Exception to allow the retention, alteration, movement, or expansion of a nonconforming sign, provided the Appeal Authority determines that (1) the nonconforming sign poses an alternative equivalent means of meeting the intent of this Chapter and the City's Comprehensive Plan; (2) the action will not impose a burden on other properties in the City beyond that posed by a conforming sign; and (3) approval will provide a forum for free expression or other articulable benefits to the public. Unfair competitive disadvantage of businesses in the City whose signs do comply with this Chapter is to be construed as a burden to be considered by the Appeal Authority. A new business generally shall not qualify for a Special Exception for reuse of a

nonconforming sign left by a previous business. Purely economic factors, such as the expense of removing or altering a nonconforming sign or of purchasing a new conforming sign are not to be considered as reasons for granting a Special Exception by the Appeal Authority. The Appeal Authority is empowered to attach reasonable requirements with which the petitioner must comply as a condition of approval of a Special Exception. The duration of the special exception shall not extend beyond that period allowed by any amortization ordinance in effect at the date the exception is granted and any special exception shall be conditioned on the posting of a bond with the City sufficient to cover the cost of timely removal of such sign.

18.103.140 Safety And Location Standards For Permanent Signs

A. Standards of Construction

1. All signs erected in Heber City shall comply with the provisions of the National Electrical Code, Building Code and the Heber City Sign Ordinance effective at the time the permit is issued.
2. Licensed Sign Contractor required. No sign, fixture or device involving electrical wiring or connections shall be erected or installed in Heber City except by a licensed and bonded contractor.
3. Engineering Required. All sign permit applications shall be engineered to demonstrate conformance with the applicable provisions of the Building Code; and, where required by the Chief Building Official, shall be accompanied by a drawing stamped by a structural engineer licensed by the State of Utah attesting to the adequacy of the proposed construction of the sign and its supports.
4. Durability. All signs must be built of durable and permanent materials. Permanent materials include metal, glass, stone, concrete, high density foam board, brick, or solid wood. Vinyl, cloth, cardboard, and plywood are not permanent materials.
5. Readability. All signs, both temporary and permanent, must be professional looking and be legibly lettered.
6. Power Source. Permanent power sources for signs must be concealed underground away from public view.

B. Traffic Safety. No sign or other advertising structure shall be erected which in any manner may be confused with an official traffic sign or signal, or which bears words normally used in such signs, i.e., stop, go slow, caution, danger, warning, etc. No sign or any advertising structure shall be erected which by reason of its size, location, shape, content, coloring, or manner of illumination might be confused as a traffic control device. No sign shall have lighting which impairs the vision of anyone traveling upon a public street or distracts any driver so as to create a public nuisance. Specifically, no sign or group of signs may not exceed 1 foot candle in brightness as measured at the property line

C. Clear View of Intersecting Streets. No sign more than 3 feet in height (above the top back of curb) shall be erected at any intersection for vehicular traffic within a triangular area formed by the intersection of straight lines extended from the edge of asphalt and a line connecting them at points 45 feet from the intersection of the lines. NOTE: Monument signs may be erected in the above mentioned area if they are less than 3 feet above the curb grade to the top of the sign. The Planning Commission must approve any removal of landscaping in order to accomplish that objective. Deviations from these requirements must be reviewed and approved by the Heber City Engineer, if found to maintain an acceptable degree of safety. Deviations beyond those approved by the Engineer must be appealed to the Appeal Authority.

D. Specific Clearance And Location Requirements. The following rules apply for all signs:

1. Freestanding signs shall not extend over any pedestrian or vehicular access area unless specifically approved by the City Engineer.
 2. No part of any sign shall interfere with the use of any fire escape, exit, required stairway, door ventilator, or window.
 3. No sign shall be erected or maintained which has less horizontal or vertical clearance from communication lines and energized electrical power lines than that prescribed by the laws of the State of Utah or its agencies.
 4. No sign shall be located on publicly owned land or inside street rights-of-way, except signs owned and erected by permission of an authorized public agency or specifically authorized herein.
 5. High profile (freestanding) and low profile (ground or monument) signs shall be located at least their height in distance from side property lines in order to prevent damage to adjacent land in case a sign is toppled by accident or an act of God.
 6. Low-profile (monument) signs shall be set back at least three [3] feet from the front sidewalk and from all driveways.
 7. No sign may be closer than ten feet to any adjoining residential property.
- E. **Maintenance.** Every sign shall be kept in complete operating condition. The landscaped area in which any sign is placed shall be kept free from weeds, garbage, and debris. "Maintenance" includes the repair of facades where signs have been removed; the painting, cleaning, repairing of the sign. "Maintenance" does not include structural alterations, cosmetic or style changes or enlargements of face changes.
- F. **Foundations.** All signs must be permanently mounted on foundations and footings which conform to the Building Code.
- G. **Lighting.** The light from the illumination of signs shall be carefully directed so that the light is not obtrusive or a nuisance to adjacent properties particularly residential areas.
- H. **Building Identification.** All buildings shall be identified with a numbered or lettered street address in addition to opt optional business identification. The letters or numbers shall be at least 4 inches in height.

18.106.040 Requirements And Procedures

- A. **Proposed Developments.** Proposed developments shall locate lots and building pads so that structures will not violate this section. At the time a development is proposed, the applicant shall provide a visual assessment model from viewing platforms selected in accordance with Section 18.106.030. If the proposed development is considered by the planning director to be on a significant ridgeline, the developer shall submit photo simulations, drawings, computer modeling, or some other means that will allow a determination to be made by the Planning Commission and City Council that structures will be built below the ridgeline. The photo simulations, computer modeling, or drawings shall be done from the same viewing platforms as the visual assessment model. The final plat shall have building envelopes that limit the location and height of the structure to the locations and heights used in the ridgeline modeling to ensure that this section is not violated. The ridgelines will be addressed at the preliminary and final approvals so that the final ridgeline modeling will correspond with the final plat and building envelope locations.
- B. **Existing Platted Lots or Lots of Record.** Existing platted lots or lots of record shall be reviewed by the Planning Staff. If Planning Staff and applicant cannot agree on mitigation requirements the item will be required to go to the Planning Commission as a conditional use that will be applied for with the building permit. The Planning Commission may set reasonable conditions to mitigate the visual impacts as designated in Section 18.106.070, "Design Guidelines". Existing platted lots or lots of record are those lots that were platted and recorded prior to the adoption of this title. It shall be the responsibility of the applicant to notify the planning department of their intent to build in the location of a ridgeline at which time a visual assessment model will be run from the four (4) closest

viewing platforms to determine if the proposed structure is on a ridgeline. As part of the conditional use application, building renderings, colors, materials, photo simulations, computer modeling or drawings shall be submitted.

- C. **Appeals.** Appeals of the decisions of the Planning Staff will be made to the Appeal Authority.

18.108.045 Requirements For A Public Facilities For Special Events

The Planning Commission may grant a conditional use permit for a Public Facilities for Special Events in an I-1 Zone if and only if in compliance with the following:

- A. Each RV, travel trailer, and lodging unit using the premises shall be served by water, sewage and power facilities;
- B. The facilities shall be built and each such unit served in compliance with City standards and specifications and shall meet the fire safety requirements of sections 901 and 902 of the Uniform Fire Code;
- C. The size of space to be occupied by each unit shall not be less than 13 feet wide by 40 feet in length;
- D. The maximum capacity shall not exceed 50 units per acre;
- E. All two-way roads servicing the area shall be at least 24 feet in width and all one-way roads shall be at least 16 feet in width;
- F. All streets and lanes shall be kept free of any obstructions so that fire protection, ambulance and law enforcement vehicles may move freely across the roadways that serve that facilities;
- G. The facilities shall be adequately lit. Lighting shall be in accordance with Heber City's lighting standards and specifications;
- H. The roadways and each individual unit shall be clearly identified;
- I. The facilities shall be maintained in a safe condition and free of noxious weeds and debris;
- J. Use of the facilities by the occupants is not to be permanent or prolonged but only in connection with the governmentally sanctioned or sponsored public event that is taking place at the time.

18.108.070 Uses Not Expressly Permitted Are Prohibited

Uses of land which are not expressly permitted within a zone are expressly prohibited therein.

18.108.080 Moved Buildings

- A. No building shall be moved within the city which building has had prior use, without an application being filed therefore with the zoning administrator. Said application shall contain the following information:
 - 1. Location and address of the old and new site;
 - 2. Plot plan of the new location, also showing adjacent lots on all sides of the property and indicating all structures and improvements on said lots;
 - 3. Plans and specifications for the proposed improvements at the new location, including plans for landscaping treatment when required by the zoning administrator;
 - 4. Certification by the zoning administrator that the structure is sound enough to be moved and that the condition, location and use of the building will comply with this title and all other applicable code and ordinances.
- B. The application must then be approved by the Planning Commission. Before approving said application and authorizing the issuance of a permit the Planning Commission must find:

1. That the building will have no appreciable detrimental effect on the living environment and property values in the area into which the structure is to be moved;
2. That the building is in conformity with the quality of buildings existing in the area into which it is proposed to be moved;
3. That said building and the lot on which the building is to be located will conform to the requirements of this title and other applicable codes, ordinances and regulations;
4. That its location on the lot does not in any substantial way adversely affect buildings or uses in abutting properties;
5. That all landscaping, walkways and masonry work about the premises and the required dedications and improvements for streets and facilities and buildings shall be provided in conformity with the standards of the city;
6. That a bond or other assurance has been posted as a guarantee that the building and grounds will be improved as stipulated by the Planning Commission before the building is occupied and that the vacated site will be restored to a safe and sightly condition. The amount of the bond or other assurance shall be at least equal to the cost of employing a contractor to make the improvements to the buildings and premises as required by the Planning Commission. The requirements of this chapter shall also apply to the moving of mobile homes, demountable homes, manufactured homes and similar movable structures except when being moved from outside the city into a mobile home park.

18.108.110 Owner Occupied Accessory Apartments

The zoning administrator may grant a permit for an Owner Occupied Accessory Apartment (OOAA) in any Residential Zones subject to the following conditions:

- A. No more than one Owner Occupied Accessory Apartment may be permitted in each single family dwelling.
- B. Either the Owner Occupied Accessory Apartment or the principal residence shall be occupied by the owner of the property except for temporary bona fide absences.
- C. Owner Occupied Accessory Apartments are permitted only in owner-occupied single-family dwellings or owner-occupied single unit detached dwellings.
- D. There shall be no external evidence of occupancy by more than one family. The Owner Occupied Accessory Apartment shall be clearly incidental to the primary use of the dwelling for dwelling purposes and shall not change the character of the building from that of a dwelling.
- E. Occupancy of the Owner Occupied Accessory Apartment shall be limited to no more than two (2) adults with or without children.
- F. Each unit shall have the same address as the main structure. Homes with Owner Occupied Accessory Apartments may designate mail to its renters by Apartment Number, to wit, Apartment #1 or Apartment #2.
- G. A single family dwelling with an Owner Occupied Accessory Apartment shall provide in addition to the two (2) parking spaces required for the principal dwelling, two (2) off-street parking spaces.
 1. The parking spaces are required to be hard surfaced.
 2. Garage or car port spaces do count as approved spaces.
- H. A single family dwelling with an Owner Occupied Accessory Apartment shall have one but no more than two (2) meters for each water, and gas service. Each meter shall be in the property owner's name. There shall only be one (1) electric meter per building.
- I. All construction and remodeling to accommodate the Owner Occupied Accessory Apartment shall be in accordance with both the International Residential and Building Codes in effect at the time of construction or remodeling.
- J. Landscaping:

1. The lot on which the Owner Occupied Accessory Apartment is located shall have a landscaped yard in accordance with Chapter 18.76.020.
 2. The lot on which the Owner Occupied Accessory Apartment is located shall have street trees in accordance with Chapter 12.20.
- K. The Owner Occupied Accessory Apartment size requirements are:
1. Minimum size of 300 sq/ft.
 2. Maximum size of 1500 sq/ft or 80 % of the main dwelling unit's footprint, whichever is smaller.
- L. Owner Occupied Accessory Apartments must include the following:
1. A kitchen separate from the main dwelling.
 2. Sanitation facilities (full bathroom) separate from the main dwelling.
 3. An entrance and/or exit that is separate from the main dwelling.
- M. Owner Occupied Accessory Apartment Permit: A person desiring an Owner Occupied Accessory Apartment shall obtain an Owner Occupied Accessory Apartment Permit from the planning and zoning department.
1. Before the Permit is issued, the applicant shall:
 - a. Submit a site plan drawn accurately to scale that shows property lines and dimensions, the location of existing buildings or additions, dimensions from buildings or additions to property line, and the location of parking stalls, and utility meters.
 - b. Include detailed floor plans drawn to scale with labels on rooms indicating uses or proposed uses.
 - c. Pay fees, as established by Heber City for the registration of Owner Occupied Accessory Apartments in accordance with Heber City's established fee schedule. This nominal fee shall be paid each year for renewal of the permit. If the use of an Owner Occupied Accessory Apartment is abandoned, and a new application is made to use the Owner Occupied Accessory Apartment at a later date, a new fee shall be required.
 2. Prior to the issuance of an Owner Occupied Accessory Apartment Permit for an Owner Occupied Accessory Apartment not previously permitted at that location, the applicant shall permit inspection of the prospective Owner Occupied Accessory Apartment to ensure compliance with building, fire, safety, and health codes, and shall comply with such orders of the City Building Department and requirements of said codes. Permitted Owner Occupied Accessory Apartments, or Owner Occupied Accessory Apartments to be licensed within the City, shall comply with International Property Maintenance Code as adopted by Heber City. Owner Occupied Accessory Apartments licensed within the City may be inspected periodically for compliance with building, fire, and health codes by any appropriate department of the City or other governmental agency to ensure compliance with building, fire and health and safety codes. No Owner Occupied Accessory Apartment Permit shall be granted without all such required inspections and approval of the City Building Department. Owner Occupied Accessory Apartments that were constructed legally previous to the adoption of this Code shall meet the building and safety codes required at the time of construction. No Owner Occupied Accessory Apartment Permit shall be granted without providing evidence of a Certificate of Occupancy.
 3. The permit will be approved for subsequent one year periods upon renewal. If the permit lapses for more than one year, the homeowner will have to reapply for an initial Owner Occupied Accessory Apartment Permit. Each year a nominal renewal fee will be required in accordance with Heber City's established fee schedule.
- N. Termination of conditional use: Conditional use permits for an Owner Occupied Accessory Apartment shall expire each year, when the owner moves out of the dwelling or when the property

is sold to a new owner. Approval for an Owner Occupied Accessory Apartment may be withdrawn by the City Planning and Zoning Department when the conditions upon which the permit has been issued no longer are maintained by the property owner. Any such conditional use does not follow the land. A new permit must be obtained if the home is sold and the new owners want the conditional use as an Owner Occupied Accessory Apartment.

- O. Prior Uses: No Owner Occupied Accessory Apartments existing prior to the enactment of this Section shall be "grandfathered", or considered legal solely because they were previously used as such. It is the intent of the City Council that all Owner Occupied Accessory Apartments be issued a permit based upon their compliance with the conditions stated herein.
- P. Other Apartments Prohibited: There shall be no other type of accessory apartment allowed except as provided in this Section. Any portion of a home or dwelling unit that has been sectioned off so that any occupant in the dwelling does not have access to any portion of the home, and contains separate living quarters and/or a kitchen, regardless of the relationship of the occupants, shall be prohibited unless it meets all of the requirements and standards of this Section, and an application has been made pursuant to the requirements and conditions of this Section.
- Q. Decisions of the zoning administrator not to issue an Owner Occupied Accessory Apartment permit as a conditional use are appealable to the Appeal Authority. Application for an appeal must be made to the Appeal Authority within fifteen (15) working days of the zoning administrator's decision, or the decision of the zoning administrator shall be final.
- R. The ownership of Owner Occupied Accessory Apartments shall not be separated from a principal dwelling.

18.109.040 Administration

- A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR. The Heber City Engineer or its designee is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.
- B. DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR. Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following:
 - 1. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
 - 2. Review permit applications to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
 - 3. Review, approve or deny all applications for development permits required by adoption of this ordinance.
 - 4. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
 - 5. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
 - 6. Notify, in riverine situations, adjacent communities and the State Coordinating Agency prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
 - 7. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

8. When base flood elevation data has not been provided in accordance with Section 18.109.030 B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Section 18.109.050.
 9. When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
 10. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).
- C. PERMIT REQUIREMENTS. Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
 2. Elevation in relation to mean sea level to which any nonresidential structure shall be flood-proofed;
 3. A certificate from a registered professional engineer or architect that the nonresidential flood-proofed structure shall meet the flood-proofing criteria of Section 18.109.050 B. 2;
 4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
 5. Maintain a record of all such information in accordance with Section 18.109.040 B. 1.
- D. PERMIT APPROVAL OR DENIAL. Approval or denial of a Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:
1. The danger to life and property due to flooding or erosion damage;
 2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 3. The danger that materials may be swept onto other lands to the injury of others;
 4. The compatibility of the proposed use with existing and anticipated development;
 5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
 7. 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;
 8. The necessity to the facility of a waterfront location, where applicable;
 9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 10. The relationship of the proposed use to the comprehensive plan for that area.
- E. VARIANCE PROCEDURES
1. The Appeal Authority as established by the City Council shall hear and render judgment on requests for variances from the requirements of this ordinance. In addition to making

- the required findings for a variance pursuant to Utah State Code Section 10-9a-702, the Appeal Authority shall give consideration to the provisions of this Section 18.109.040 E.
2. The Appeal Authority shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
 3. Any person or persons aggrieved by the decision of the Appeal Authority may appeal such decision in the courts of competent jurisdiction.
 4. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
 5. 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 ordinance.
 6. 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 flood level, providing the relevant factors in 18.109.040 D. have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
 7. Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Authority may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (Section 18.109.010 C.).
 8. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
 9. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
 10. Prerequisites for granting variances:
 - a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - b. Variances shall only be issued upon:
 - 1) showing a good and sufficient cause;
 - 2) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - 3) 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, or conflict with existing local laws or ordinances.
 - c. Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
 11. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - a. the criteria outlined in Section 18.109.040 E. 1-9 are met; and
 - b. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

18.110.200 Expansion, Alteration, And Nonconforming Uses

This ordinance shall not make existing, non-conforming and/or illegal telecommunication facilities legal or conforming. Any expansion or alteration of a telecommunications facility shall comply with the provisions and procedures of this ordinance. Expansion and alteration include any change to the facility, including but not limited to structural, electrical, aesthetic and functional changes. Non-conforming telecommunication facilities, when expanded or altered, shall meet the requirements of this ordinance.

- A. Any pre-existing facilities located in a commercial or industrial zone which were placed without a building permit prior to the effective date of this ordinance may apply for a building permit and be approved if the facility meets the application height, setback and location provisions of this ordinance, subject to Section 18.110.070.
- B. Existing, illegal facilities which cannot or do not meet the height, setback, and location provisions of this ordinance may apply to the Appeal Authority for a special exception. The Board may approve such an exception, only upon condition it meet all of the following findings:
 1. That the existing facility was erected prior to the effective date of this ordinance.
 2. That the existing facility is compatible, aesthetically and otherwise, with the surrounding uses.
 3. That the facility does not present a prominent position by itself to the skyline, as viewed from the public street, and if so, that said facility may be moved within the site to a position so as not to be visibly prominent in the skyline.
 4. That the facility is currently being used and has not been abandoned for a period longer than that allowed by Section 18.110.150 E, of this ordinance.
- C. The Appeal Authority may place any additional conditions of approval it may deem fit and advisable to safeguard the aesthetics of the community as viewed from the public street.
- D. As part of the Conditional Use permit approval for modification of an existing monopole, the Planning Commission may waive the height and setback requirements for approved co-location monopoles in existence prior to this ordinance which are located within the I-1 Industrial Zone.

Chapter 18.112

Nonconforming Uses, Noncomplying Structures and Other Nonconformities

18.112.01 Purpose and administration of provisions.

18.112.02 Existing lots of record exceptions.

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18.112.05 Nonconforming uses.

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18.112.07 Other nonconformities.

18.112.08 School District Property

18.112.01 Purpose and administration of provisions.

A. Except as provided in this chapter, a nonconforming use or structure may be continued.

B. Procedure for determination.

Upon request, the Planning Director or designee, shall determine whether a building, structure, or parcel of land meets the criteria of a nonconforming use or noncomplying structure based on evidence presented by the applicant. The Planning Director or designee, shall determine the existence, expansion, or modification of a nonconforming lot or use, noncomplying structure, or other nonconformity as provided in the following procedure:

(a) If a determination of the nonconforming status of a property is desired, the owner or his designee shall make application for a nonconforming use determination with the Planning Department. The burden of proof lies with the applicant, but the Planning Director or designee shall investigate the factual and legal history of the subject property and shall thereafter make a determination of the nonconforming status of the property.

(b) Notice of the determination of nonconforming status shall be mailed to the owners of the subject property.

(c) If within ten (10) days after notice is mailed, information is received by the Planning Director or designee, which may affect the validity of the determination, the administrator may make an amended determination. Notice of an amended determination shall be given as set forth in subsection (b) of this section.

(d) The notice shall include a statement that any determination may be appealed as provided in Chapter 18.12.130 of this title and shall state the date by which the appeal must be filed.

(e) Such evidence may include building permits, tax records, photographs, receipts, signed contracts, historical documents, or other written evidence. The property owner shall have the burden of establishing the legal existence of a noncomplying structure or nonconforming use.

18.112. 02 Existing lots of record exceptions.

A. The requirements of this title as to minimum building site area shall not be construed to prevent the use for a single-family dwelling of any lot or parcel of land in the event that such land was held in separate ownership at the effective date of the original Heber City zoning ordinance.

B. In zones where livestock raising, keeping or pasturing animals is allowed and a nonconforming use is split under the provision of Title 17 then the nonconforming property changes to a conforming use then the nonconforming use will cease. Any remaining vacant pieces may continue the nonconforming use if the remaining parcel(s) is/are large enough to contain the continuation of that use as determined by the Planning Commission at the time the property is divided under the provisions of Title 17.

C. Non-conforming rental based multi-family dwellings (i.e. apartments, duplexes, triplexes, fourplexes, etc.), may be converted into owner occupied dwellings through a condominium plat as per Title 17, provided:

1. The buildings shall meet or be upgraded to meet the requirements of the building code as determined by the building code. The buildings shall be upgraded prior to recording of the plat or a bond posted in an amount equal or greater than the cost of the required building improvements;
2. The requirements of the subdivision Ordinance shall be met, which may require the installation of public improvements and utility modifications to meet current standards; and
3. The site shall be improved as necessary to meet the parking requirements and landscaping requirements of Title 18.

D. Any land that is annexed into Heber City which use was conforming in the County but now is nonconforming in Heber City, the same will apply.

18.112. 03 Continuing existing uses.

Except as hereinafter specified, any use, building, or structure, lawfully existing at the time of the enactment or subsequent amendment of the ordinance codified in this title, may be continued, even though such use, building, or structure does not conform with the provisions of this title for the district in which it is located. Except as otherwise provided by law, nothing in this title shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by the Chief Building Official.

18.112. 04 Construction approved prior to title.

A building, structure, or part thereof which does not conform to the regulations for the district in which it is situated, but for which a building permit was issued and construction started prior to the enactment of the ordinance codified in this title, may be completed in accordance with such plans providing work is completed within a one-year time period. Such buildings shall be deemed to be noncomplying and shall be subject to the regulations set forth herein.

18.112. 05 Nonconforming uses – substitution, extension, discontinuance, etc.

A nonconforming use shall not be enlarged, extended, or changed unless the use is changed to a use permitted in the district in which it is located, except as follows:

A. Substitution or extension.

- i. Whenever a nonconforming use has been changed to a conforming use, such use shall not thereafter be changed to a nonconforming use.
- ii. When authorized by the Planning Director or designee, in accordance with this title, a building devoted to a nonconforming use may be completed upon the lot occupied by such building; provided, that such completion is necessary and incidental to the existing use of such building. Such structures shall be less than the existing square footage of the nonconforming building.
- iii. 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.

- iv. A nonconforming use in a conforming structure damaged by fire, wind, tornado, earthquake, or other natural disaster or calamity may be restored as it existed previously and its use may be continued so long as restoration is complete within one (1) year.

B. Discontinuation.

A nonconforming use shall be deemed to have ceased when it has been discontinued either temporarily or permanently for a period of 12 months or more, and there is evidence that there was an intent to abandon such use. Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment.

Any of the following shall be considered evidence of intent to abandon a nonconforming use:

- i. Actual notice given by a property owner or his authorized agent.
- ii. Constructive notice given to the public, city, county, or other government agency.
- iii. Cessation of any city-required utility service, such as culinary water, sewer, or electrical power, for a period of 12 months or greater,
- iv. Cessation of all maintenance for a period of 12 months or greater.
- v. A 75 percent or greater reduction in scope of nonconforming operation(s) within a period of 12 months.
- vi. Failure to implement city, county, state or federal ordinances within six months of written notification.
- vii. Failure by a property owner or his authorized agent to physically occupy a structure or property within a period of 12 months.

18.112. 06 Noncomplying structures.

1. A nonconforming building shall not be reconstructed or structurally altered unless such alteration shall result in removing those conditions of the building which render it nonconforming.
2. Repairs and structural alterations may be made to a nonconforming building; provided, that the floor space of such building is not increased.
3. A nonconforming building or structure which is damaged or partially destroyed by fire, flood, wind, earthquake, or other calamity or act of God or the public enemy, to the extent of not more than one and one-half times its assessed value at that time, may be restored and the occupancy or use of such building, structure or part thereof which existed at the time of such partial destruction may be continued or resumed; provided, that such restoration is started within a period of one year and is completed within a one-year time period. In the event such damage or destruction exceeds one and one-half times the assessed value of such nonconforming building or structure, no repairs or reconstruction shall be made, except in the case of residences or accessory farm buildings, unless every portion of such building or structure is made to conform to all regulations for new buildings in the zone in which it is located.

18.112. 07 Other nonconformities.

1. Application and intent.

This section shall apply to any other circumstance which does not conform to the requirements of this title including, but not limited to, fence height or location; lack of buffers or screening; lack of or inadequate landscaping; lack of or inadequate off-street parking; and any other nonconformity not covered by this chapter. Because the nonconformities regulated by this section involve less investment and are more easily corrected than those regulated by other sections of this chapter, the intent of the City is to reduce and eventually eliminate such nonconformities as quickly as practicable. The degree of such nonconformities shall not be increased.

2. Nonconforming development with approved site plan.

Any nonconforming development which is governed by an approved site plan shall be deemed to be in conformance with this title to the extent such existing development conforms to the plan.

3. Compliance Required.

A nonconformity other than one enumerated in other sections of this chapter shall be brought into conformance upon the occurrence of any one of the following:

- i. Any action which increases the floor area of the premises by more than thirty percent (30%).
- ii. Any action which, when combined with one (1) or more previous expansions that have occurred over a period of time, causes the aggregate area of expansion to exceed thirty percent (30%) of the original floor area of the premises.
- iii. For a lot located in a commercial or industrial zone, any change in use to a more intensive use when a new certificate of occupancy is required.