

**HARRISVILLE CITY
ORDINANCE NO. 412**

ZONING ORDINANCE AMENDMENTS

AN ORDINANCE OF HARRISVILLE CITY, UTAH, AMENDING CHAPTER 11.04 RELATING TO ZONE DISTRICTS; CHAPTER 11.07 RELATING TO OPEN SPACE ZONE; CHAPTER 11.09 RELATING TO RESIDENTIAL DEVELOPMENT STANDARDS; CHAPTER 11.13 RELATING TO ACCESS LIMITATION; AND CHAPTER 11.20 RELATING TO REGULATIONS APPLICABLE TO MORE THAN ONE ZONE; SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Harrisville City is a municipal corporation, duly organized and existing under the laws of the State of Utah;

WHEREAS, *Utah Code Annotated* §§ 10-8-84 and 10-8-60 allow municipalities in the State of Utah to exercise certain police powers and nuisance abatement powers, including but not limited to providing for safety and preservation of health, promotion of prosperity, improve community well-being, peace and good order for the inhabitants of the City;

WHEREAS, Title 10, Chapter 9a, of the *Utah Code Annotated*, 1953, as amended, enables municipalities to regulate land use and development;

WHEREAS, the City finds it necessary to update its land use ordinances in order to meet the challenges presented by development and to protect public health, safety, and welfare; and,

WHEREAS, after publication of the required notice the Planning Commission held its public hearing on August, 12, 2009, to take public comment on this proposed Ordinance, and subsequently gave its recommendation to approve this Ordinance;

WHEREAS, the City Council received the recommendation from the Planning Commission and held its public meeting on September 8, 2009, and desires to act on this Ordinance;

NOW, THEREFORE, be it ordained by the City Council of Harrisville City as follows:

Section 1: Repealer. Any chapter, section, word, sentence, paragraph, or phrase inconsistent with this Ordinance is hereby repealed and any reference thereto is hereby vacated.

Section 2: Amendment. Title 11 of the *Harrisville Municipal Code* is hereby amended to read as follows:

Chapter 11.04 ZONE DISTRICTS

Sections:

- 11.04.010. Establishment of zones.**
11.04.020. Boundaries of zone.
11.04.030. Rules applicable where boundaries uncertain.

11.04.010. Establishment of zones.

For the purpose of ~~this Zoning Ordinance~~ Title 11 of the municipal code, the city is divided into ~~the following various zones~~ in which land uses shall be classified and limited as specified in ~~this Zoning Ordinance~~ the municipal code. Zone classification will may be determined on the basis of location, topographic features, transportation corridors, the natural environment, suitability and sustainability of development, and other reasonable considerations to guide the orderly physical growth, neighborhood compatibility and overall stability of the city.

1. Open-Space zone O-1.
2. Agricultural zone A-1.
3. Low Density Residential R-1-20.
4. Residential Estate Zone RE-15.
5. Single Family Residential Zone R-1-10.
6. ~~Two Family Residential Zone R-2.~~
7. Multiple Family Zone R-3.
8. Moderate Density Zone R-1-6.
9. Planned Community Commercial Zone CP-2.
10. Planned Manufacturing Zone MP.

11.04.020. Boundaries of zones.

The boundaries of each of the said zones ~~are hereby established as described herein or as shall be shown on the official map entitled "Zoning Map of Harrisville City" or as hereafter and may be amended from time-to-time as provided by law. a copy of which is attached hereto, and~~ All boundaries, notations, and other data shown on said maps are made by this reference as much a part of this Title as if fully described and detailed herein. Said maps shall be filed in the custody of the city recorder in conjunction with the applicable ordinance that adopted said map or map amendment and may be examined by the public as provided by law ~~subject to any reasonable regulations established by the city recorder.~~

11.04.030. Rules applicable where boundaries uncertain.

Where uncertainty exists as to the boundary of any zone, the following rules shall apply.

1. Wherever the zone boundary is indicated as being approximately upon the center line of a street, alley or block, or along a property line, then unless otherwise definitely indicated on the map, the centerline of such street, alley or block, or such property line, shall be construed to be the boundary of such zone.
2. Where such boundary line of such zone is indicated as being approximately at the line of any river, irrigation canal, or other waterway or railroad right-of-way, or public park or other public land, or any section line, then in such case of the center of such stream, canal, or waterway or of such railroad right-of-way, or the boundary line of such public land or such section line shall be deemed to be the boundary of such zone.

3. Where such zone boundary lines cannot be determined by the above rules, their location may be found by the use of the scale appearing on the map.
4. Where the application of the above rules does not clarify the zone boundary location, the land use appeal authority shall interpret the map.

Chapter 11.07 OPEN SPACE ZONE (O1)

Sections:

- 11.07.010. Purpose and intent.**
11.07.020. Permitted uses.
11.07.030. Conditional uses.
11.07.040. Sign regulations.

11.07.010. Purpose and intent.

The Open Space Zone (O1) is specifically intended to encourage the preservation of a natural environment in an otherwise urban setting; to hold for future generations open space in which plants and animals can be protected and studied; to inhibit erection of unnecessary buildings on a flood plain, on areas of severe slope, and areas of fault line and rock slides; to provide suitable areas for recreation and relaxation; to preserve historic, cultural and artistic areas and to alleviate stream pollution.

11.07.020. Permitted uses.

1. Agriculture.
2. Botanical or zoological garden.
3. Conservation areas.
4. Fishing ponds: private or public.
5. Golf course.
6. Horse raising, provided conducted in a pasture of at least one (1) acre size and with a maximum density of two (2) horses per acre.
7. Public park, public recreation grounds and associated buildings, but not including privately owned commercial amusement business.
8. Wildlife sanctuaries.
9. Pedestrian, biking, equestrian trails.
10. Other open undeveloped areas for community identity, historic, and cultural preservation.
11. Local landmarks and historical areas.
12. Native undeveloped use.

11.07.030. Conditional uses.

The following uses shall be permitted only when authorized by a conditional use permit: as provided in Chapter 5 of this Zoning Ordinance.

1. Accessory buildings incidental to any permitted use.
2. Public service building.
3. Private park, playground, or recreation area.

11.07.040. Sign regulations.

The type, height, size and location of signs shall be in accordance with the regulations as set forth in Chapter 23 of this Zoning Ordinance the Land Use Ordinance.

Amends Ordinance No. 390 - Residential Development Standards as follows:

11.09.030. Accessory building development standards.

1. Free standing residential accessory structure setbacks. Residential accessory structures (e.g. garage, shed, work shop, gazebo, and covered pergola) which are free standing shall only be located to the side or rear of the main building. ~~Such structures shall not be located in the side yard setback facing a street. Accessory structures shall not be closer than six (6') feet to the main building and shall have a minimum setback of three (3') feet from the side or rear property line if the roof pitch of the accessory building slopes toward the property line or a minimum of one (1') foot setback if the roof does not slope toward the property line.~~ The accessory building located in the side yard must be set back at least ten (10) feet from the side yard property line and (6) feet from the main building. ~~For accessory structures located at least six (6) feet in the rear yard behind the main building, the side yard setback may be one (1) foot from a property line, except buildings with metal roofs shall be eight (8) feet from any lot line. No portion of the roof overhang shall be closer than one half foot (1/2') to any property line, and proper grading and drainage shall be installed to prevent additional drainage onto adjoining property, along with rain gutters if closer than 5 feet.. Placement of accessory buildings on utility easements is not allowed, without written permission from all easement holders. In the A-1 Zone, accessory buildings may be located in the front yard so long as such as 30 feet from the road right of way, and at least 10 feet from the main building or dwelling.~~

Amends Ordinance No. 400 to add new section to Commercial & Manufacturing Development Standards as follows:

11.13.060. Access limitations.

Access directly onto a residential subdivision or a street that is primarily residential in nature to or from commercial and/or manufacturing uses is prohibited.

Chapter 11.20

REGULATIONS APPLICABLE TO MORE THAN ONE ZONE

Sections:

- 11.20.010. Applicability.**
- 11.20.020. Yard space for one building only.**
- 11.20.030. Every dwelling to be on a lot.**
- 11.20.040. Sale or lease of required space.**
- 11.20.050. Building floor elevations on all new construction.**
- 11.20.060. Minimum height of main building.**
- 11.20.070. Maximum height.**
- 11.20.080. Height limitation exceptions.**
- 11.20.100. Clear view of intersections.**
- 11.20.110. Animals and fowl.**
- 11.20.120. Water and sewage requirements.**
- 11.20.130. Effect of official plat.**
- 11.20.140. Required building setback from designated collector or arterial streets.**
- 11.20.150. No obstruction of any drain, irrigation ditch or canal.**

- 11.20.160.** **Additional yard regulations.**
- 11.20.170.** **Day care center regulations.**
- 11.20.180.** **Fence height regulations.**
- 11.20.190.** **Exterior lighting - Dark Sky Policy.**
- 11.20.200.** **Public utility substation.**
- 11.20.210.** **Cash Advance Establishments.**
- 11.20.220.** **Outdoor storage.**
- 11.20.230.** **Trash enclosures.**
- 11.20.240.** **Access.**

11.20.010. **Applicability.**

The regulations in this Chapter qualify or supplement the zone regulations appearing elsewhere in this title.

11.20.020. **Yard space for one building only.**

All yard or other open space shall be located on the lot where the building is located. Yard space and open space on adjoining lot cannot be used on as yard space or open space on the subject lot around an existing building shall be considered as providing a yard or open space for any other building, nor shall any yard or other required open space for any other building; nor shall any yard or other required open space on an adjoining lot be considered as providing a yard or open space on a lot whereon a building is to be erected or established.

11.20.030. **Every dwelling to be on a lot.**

Every dwelling shall be located and maintained on a lot as defined in this title. Such lot shall have the required frontage on a public or approved private street or on a right-of-way which has been approved by the land use appeal authority.

11.20.040. **Sale or lease of required space.**

No space necessary to meet the minimum site development standards, parking, or other requirements of this ordinance for a lot or building may be sold or leased away from such lot or building.

11.20.050. **Building floor elevations on all new construction.**

Due to high ground water conditions, throughout the city, the lowest habitable floor level is restricted to an elevation 1.0 foot below the curb and gutter fronting the lot. A detailed soils investigation from a qualified geotechnical firm to determine historic ground level must be submitted and approved by the city engineer for any exception to this requirement.

11.20.060. **Minimum height of main building.**

No building shall be erected less than one (1) story above grade.

11.20.070. **Maximum height.**

No building shall be erected to a height greater than 35 feet, measured from sidewalk to average eave unless such building is an agricultural building as defined by *Utah Code Annotated* 58-56-4.

11.20.090. **Height limitation exceptions.**

Roof structures for the housing of an elevator, stairways, tanks, ventilation or similar equipment required to operate or maintain a building, fire or parapet walls, skylights, communication towers

or masts, steeples, flagpoles, silos, theater lofts, may be erected above the height limits herein prescribed as a permitted or conditional use, as the case may be, but no space above the height limit shall be allowed for the purpose of providing additional floor space. Notwithstanding the exceptions of this section, no heights are permitted above the maximum allowed under Airport height regulations.

11.20.100. Clear view of intersections.

No obstruction in excess of three and one half (3 ½) feet in height shall be placed on any corner lot within forty (40) feet of the intersection of the street lines, except a reasonable number of trees pruned high enough to permit unobstructed vision to automobile drivers; and pedestal-type identification signs.

11.20.110. Animals and fowl.

1. No animals or fowl shall be kept or maintained closer than forty (40) feet from any dwelling and not closer than seventy-five (75) feet from any dwelling on an adjacent lot. Any barn, stable, coop, pen, or other enclosure for housing or keeping animals or fowl shall be kept, constructed, or maintained no less than one-hundred (100) feet from a public street and no less than fifteen (15) feet from any lot line, excluding pastures and corrals. This paragraph does not apply to the keeping of dogs and cats.

2. Restrictions on Residential Structure. No kennel, cattery, pet shop, or similar facility or business shall be permitted within or attached to any residential structure, or structure used for residential purposes.

3. Dog and Cats. All enclosures for the keeping of a dog or cat shall be located in the rear or side yard. Such enclosures shall be set-back five (5) feet from any property line, and shall be either seventy-five (75) feet from any dwelling on an adjacent lot or in the rear one third (1/3) of the rear yard at least three (3) feet from the rear property line, whichever is most feasible.

11.20.120. Water and sewage requirements.

1. Any proposed building or use that involves culinary water and sewer facilities shall comply with the requirements of the applicable health agency, including providing the city with documentation of approval from the applicable health agency. The municipality will not accept any such improvement that do not conform with this section.

2. Building permits shall not be issued unless the water supply and sewer disposal is approved in accordance with the applicable requirements.

3. Any private sewer or septic constructed, maintained, or disposed in violation of the provisions of this section and other relevant law is declared to be a public nuisance, and the city attorney or local health official may initiate proceedings to abate the same.

11.20.130. Effect of official plat.

Wherever a setback is required for a lot or parcel facing a street for which an official plat has been recorded in the Office of the County Recorder, the depth of such front yard shall be measured from the mapped street line provided by the official plat. Permits for structures within the lines of a mapped street as may be adopted as part of any official plat shall be issued only in accordance with ordinances of the City pertaining to the official plat.

11.20.140. Required building setback from designated collector or arterial streets.

Where a street is designated on the Transportation Element of the City General Plan as a collector or arterial (major) street and where the existing street right-of-way requires widening to meet the

right-of-way standards of such collector or arterial (major) street, the minimum front and side yard setbacks for all buildings shall be based upon the future designed right-of-way width as shown on the General Plan. This shall be measured from the future lot line of the collector or arterial (major) street designated right-of-way instead of the existing lot line of the present street right-of-way.

11.20.150. No obstruction of any drain, irrigation ditch or canal.

No development shall obstruct the flow of water from any drain, irrigation ditch or canal. Any alteration or diversion of such waterways shall be approved first by the irrigation company and second the municipal enforcement official who shall follow any requirements outlined in the approval by the irrigation company.

1. Any irrigation company or the municipality may request inspections of any improvements that affect any drain, irrigation ditch or canal. The developer shall reimburse the municipality or the irrigation company for the necessary inspection requested.
2. For the purposes of this section, natural water courses in the municipality are considered drainage ways subject to the requirements of this section.
3. The provisions for *Utah Code Annotated* §73-1-14 and 73-1-15, 1953 as amended, are incorporated herein by this reference.

11.20.160. Additional yard regulations.

1. Except for landscaping vegetation, every part of a required yard shall be open to the sky, unobstructed, except for accessory buildings in a rear yard, and except for the ordinary projections of skylights, sills, belt courses, cornices, and other ornamental features, which do not project more than two feet into the required yard or as outlined by item 3 below.
2. Outside stairways, fire escapes, fireplace structures not wider than eight (8) feet measured along the wall of a building, regular unwallled porches, terraces, and balconies may project five (5) feet into a required front yard, ten (10) feet into a required rear yard, and three (3) feet into a required side yard. The ordinary projections of chimneys and flues are permitted.
3. Sunbreaks designed to control light entering a building and being a permanent part of a building may project five (5) feet into a required front yard, ten (10) feet into a required rear yard, and three (3) feet into required side yard.
4. Service station canopies in the front yard are not to be located closer than five (5) feet to the front property line.

11.20.170. Day care center regulations.

1. The regulations and licensing of day care centers shall be in accordance with Title 26, Chapter 39, *Utah Code Annotated*, as amended, or as hereafter amended.
2. All outdoor play areas shall be within a fenced area and shall be limited to use by the children in the day care between the hours of six a.m. to eight p.m. Fence height shall be in accordance with this chapter.
3. Sufficient off-street parking shall be provided for day care patrons.

11.20.180. Fence height regulations.

1. No fence or other similar structure shall be erected in any required front yard of a dwelling to a height in excess of three and one-half (3 1/2)feet; nor shall any fence or other similar structure be erected in any side or rear yard to a height in excess of seven (7) feet.

2. On corner lots, no fence or other similar structure shall be erected in any yard bordering a street or front yard of an adjoining lot to a height in excess of three and one half (3 1/2) feet, unless otherwise provided in the municipal code. On corner lots that do not block the vision of the street intersection and for the adjacent driveway, a fence may be erected to a height not to exceed six (6) feet.
3. Where a fence is erected upon a retaining wall or where for other reasons there is a difference in the elevation of the surface of the land on either side of a fence, height of the fence shall be measured from a point half-way between the top of the retaining wall and the land on either side of the fence, but nothing herein contained shall be construed to restrict a fence to less than three and one-half (3 1/2) feet in height measured from the surface of the land on the side having the highest elevation.

11.20190. Exterior lighting - Dark Sky Policy (Reserved).

11.20.200. Public utility substation.

In all zones, public utility substations shall meet the following requirements:

1. Lot Area. Each public utility substation in a residential zone shall be located on a lot not less than two thousand square feet in area.
2. Yards. Each public utility substation in a residential zone shall be provided with a yard on each of the four sides of the building not less than five (5) feet in width, except that for such stations located on lots fronting on a street abutted by one or more residential lots, the front yard, side yards, and rear yard shall equal those required for a single-family residence in the same zone.
3. Street Access. Each public utility substation in a residential zone shall be located on a lot which has adequate access from a street, alley, or easement.
4. Approval. The location, screening, and landscaping of a public utility substation zone shall be subject to approval by the planning commission.

NOTE: This section was approved by Ordinance No. 399 on August 26, 2008.

11.20.210 Cash Advance Establishments.

1. This section applies to any “cash advance establishment” (which include “check cashing” business, or “deferred deposit transaction business” or “advanced payday lender” or similar operation) where the business cashes payroll, government, personal, and other types of checks, among other related services, while taking a commission off the face-value of the check. It also includes any business that provides payday lender services provides small cash loans based on a borrowers personal check held for future deposit or on electronic access to a borrower’s bank account in exchange for the borrower including a fee for the loan in the face value of the personal check or providing other consideration of any kind. The businesses defined below are within the scope of this section:
 - a. “Check cashing center” means an establishment that, for compensation, engages in the business of cashing checks, warrants, drafts, money orders or other commercial paper serving a similar purpose. This classification does not include a state or federally chartered bank, savings association, credit union or similar financial institution. This classification does not include establishments selling consumer goods, including consumables, where the cashing of checks or money orders is incidental to the main purpose of the business.
 - b. “Check cashing facility” means an establishment primarily engaged in cashing payroll or personal checks for a fee or advancing funds on future checks, not

including state or federally chartered banks, credit unions, savings and loans, or similar financial institution.

- c. “Payday lender business” means an establishment that offers, originates, or makes a deferred deposit transaction. A “deferred deposit transaction” is a transaction whereby a person defers depositing a customer’s personal check until a specific date, pursuant to a written agreement. A payday lender business does not include a state or federally chartered bank, savings association, credit union, or similar financial institution, or retail stores that incidentally charge a fee not exceeding \$2.00 to cash checks or money orders as a service to customers.
2. Findings. The City Council of Harrisville finds and declares the following:
 - a. According to the Consumer Federation of America, because of the high fees paid for these short term loans and check cashing services, some borrowers may pay the equivalent of more than 900% annual percentage rate interest on their loan.
 - b. According to certain studies, check cashing and payday lender businesses have grown over 1300% nation-wide between 1996 and 2007 and are estimated to be growing at a rate of 15% a year. The growth of check cashing and payday lender businesses appear to be predominantly focused in moderate and lower income neighborhoods.
 - c. That a large portion of the City includes moderate and lower income neighborhoods.
 - d. A recent study by “The Progressive Policy Institute” reveals that a traditional bank account is the first step toward giving low-income Americans access to the mainstream tools for wealth creation now taken for granted by the middle-class. The unchecked proliferation of check cashing and payday lender businesses has led to the displacement of full service banking institutions, making access to traditional banking services even more difficult in lower income neighborhoods.
 - e. Continued proliferation of check cashing and payday lender businesses can result in a reduction or displacement of needed financial services and other commercial benefits in these neighborhoods.
 - f. That appropriate land use and regulatory controls on these types of businesses can still provide for this service while off-setting the negative effect upon the City.
 3. Limitation on businesses defined in this section:
 - a. No business shall be located within one (1) mile of any other or similar business within or outside the city limits.
 - b. Distance requirements defined in this section shall be measured in a straight line, without regard to intervening structures or zoning districts, from the entry door of each business.
 - c. Only one business shall be allowed in the City for every 10,000 residents living in the City.

11.20.220. Outdoor storage.

1. Outdoor Storage. With the exception of retail sales displays in an approved commercial area, outdoor storage shall be screened from public view by a six-foot-high solid masonry fence or another solid fence or screening of a height and material as allowed or required by the Planning Commission.
2. Hazards. The presence of hazardous materials not to be used on-site is prohibited.

3. Vending Machines. In commercial and manufacturing zoning districts only, up to three (3) outdoor vending machines are permitted at a location. This subsection does not apply to newspaper and similar boxes.

11.20.230. Trash enclosures.

A permanent enclosure for temporary storage of garbage, refuse and other waste materials shall be provided for every use, other than single-family dwelling and multiple-family dwellings of less than four (4) units. The enclosure shall be entirely surrounded by screen walls or buildings. Trash enclosures shall comply with the following regulations:

1. Construction. Trash enclosures shall be so constructed that contents are not visible from a height of five (5) feet above grade from any abutting street or property, and shall be constructed of solid or ornamental pierced masonry walls with solid concrete floor sloped for drainage and maintenance of sanitary conditions. Enclosures shall be of sufficient height to conceal contents, including containers, but in no case shall any enclosure be less than four (4) feet in height above grade. Gates are required and shall be solid or baffled, equal in height to the enclosure and equipped with latches to ensure closure when not in use. Gates must be maintained.
2. Location. Trash enclosures shall not be located in any front or side yard.


11.20.240. Access.

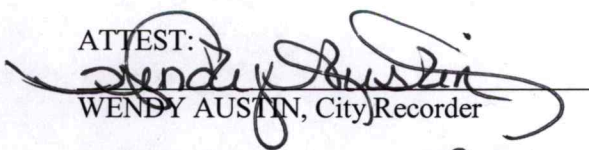
Any new access, driveway, or other ingress and egress location that utilizes the public right-of-way shall require an access permit. No new access as provided herein shall obstruct or interfere with any storm water drain, flood control device, irrigation ditch, or other type of system, except as authorized and constructed under the direction of the governing agency or appropriate operator.

Section 3: Severability. If any section, paragraph, sentence, clause or phrase of this Ordinance is declared invalid by a court of competent jurisdiction, the remainder shall not be affected thereby and such remainder shall remain in full force and effect.

Section 4: Effective Date. This Ordinance shall be effective immediately after posting or publication.

PASSED AND ADOPTED by the municipal council on this 8th day of September, 2009.


RICHARD HENDRIX, Mayor
Harrisville City

ATTEST:

WENDY AUSTIN, City Recorder

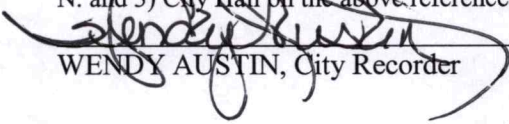
RECORDED this 9 day of Sept 2009.
PUBLISHED OR POSTED this 9th day of Sept 2009.

Roll call vote is as follows:		
Mr. Crowther	<u>yes</u>	no
Ms. Tait	<u>yes</u>	no
Mr. Wilhelmsen	<u>yes</u>	no
Mr. Richins	<u>yes</u>	no
Ms. Fowers	<u>yes</u>	no



CERTIFICATE OF PASSAGE AND PUBLICATION OR POSTING

According to the provision of U.C.A. §10-3-713, 1953 as amended, I, the municipal recorder of Harrisville City, hereby certify that foregoing ordinance was duly passed and published, or posted at 1) Cabin 2) 2150 N. and 3) City Hall on the above referenced dates.


WENDY AUSTIN, City Recorder