

OAKLEY CITY

ORDINANCE No. 2021-05

AN ORDINANCE ADOPTING THE GENERAL PLAN AND RELATED MAPS, ZONING AND SENSITIVE OVERLAY MAPS, AND THE OAKLEY CITY LAND MANAGEMENT AND DEVELOPMENT CODE

WHEREAS, the “Municipal Land Use, Development, and Management Act,” UTAH CODE ANN. §10-9a-101 et seq., as amended (the “Act”), provides that each municipality shall prepare and adopt a comprehensive, long-range general plan; and

WHEREAS, the Act also requires the municipality’s planning commission to prepare the general plan and submit it to the municipality’s legislative body and

WHEREAS, the Act also provides certain procedures for the municipality’s legislative body to adopt and amend the general plan and related maps; and

WHEREAS, in accordance with UTAH CODE ANN. §10-9a-101 et seq., the City is empowered to enact ordinances, resolutions et.al. that the municipality considers necessary or appropriate for the use and development of land within the municipality; and

WHEREAS, following all required notices, one or more public hearings were held before the Planning Commission and City Council concerning the proposed Master Plan, related maps, and the Oakley City Land Management and Development Code, where citizens were given the opportunity to provide written or oral comment concerning the General Plan, related maps, including zoning and sensitive overlay maps and the Oakley City Land Management and Development Code.

WHEREAS, a copy of the Master Plan, Maps and the Oakley City Land Management and Development Code is available at the following web address and is incorporated herein:
<https://www.oakleycity.com/planning>

WHEREAS, following such public hearing(s), the Planning Commission voted to recommend that City Council approve the General Plan, related maps, including zoning and sensitive overlay, and the Oakley City Land Management and Development Code; and

WHEREAS, thereafter, the City Council solicited and received additional public comment concerning the General Plan, related maps, including zoning and sensitive overlay, and the Oakley City Land Management and Development Code at one or more public meetings of the City Council; an

WHEREAS, the City Council met in regular meeting 12 May 2021 to consider, among other things, approving and adopting the General Plan, related maps, including zoning and sensitive overlay, and the Oakley City Land Management and Development Code; and

WHEREAS, after careful consideration of the recommendations of the Planning Commission, the comments at the public hearings and public meetings, and other pertinent information, and otherwise being fully advised, the City Council has determined that it is in the best interest of health, safety, and welfare of the citizens of the City to adopt the

General plan, related maps, including zoning and sensitive overlay, and the Oakley City Land Management and Development Code as proposed;

NOW, THEREFORE, BE IT ORDAINED by the city council of Oakley City as follows:

Section 1. Adoption of the General Plan, all related Maps, and the Oakley City Land Management and Development Code. The City Council hereby approves and adopts the General Plan and all related Maps, including zoning and sensitive overlay maps, and the Oakley City Land Management and Development Code.

Section 2. Future Amendment of General Plan and the Oakley City Land Management and Development Code. Pursuant to the authority granted in the Act, the City Council shall have, and hereby expressly reserves, the right to amend the General Plan, the Oakley City Land Management and Development Code, and related maps, hereafter further at any time or from time to time hereafter for any purpose upon recommendation by the Planning Commission following all appropriate public notices and hearings required by the Act.

Section 3. Action of Officers. All actions of the officers, agents and employees of the City that are in conformity with the purpose and intent of this Ordinance, whether taken before or after the adoption hereof, are hereby ratified, confirmed and approved.

Section 4. Severability. All parts of this Ordinance are severable, and if any section, paragraph, clause, or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of any such section, paragraph, clause, or provision shall not affect the remaining sections, paragraphs, clauses or provisions of this Ordinance.

Section 5. Repealer. All ordinances or parts thereof in conflict with this Ordinance are, to the extent of such conflict, hereby repealed.

Section 6. Effective Date. This Ordinance, assigned no 2021-05, shall take immediate effect as soon as it shall be published or posted as required by law and deposited and recorded in the office of the City Recorder, or such later date as may be required by Utah statute.

PASSED AND APPROVED this 12th day of May 2021.

ATTEST:

OAKLEY CITY COUNCIL

By: Amy Rydalch
Amy Rydalch, Recorder

By: Wade Woolstenhulme
Wade Woolstenhulme, Mayor



VOTING:

Joe Frazier	Yea <u>X</u>	Nay ___
Kelly Kimber	Yea <u>X</u>	Nay ___
Dave Neff	Yea <u>✓</u>	Nay ___
Tom Smart	Yea <u>✓</u>	Nay ___
Steve Wilmoth	Yea <u>✓</u>	Nay ___

DEPOSITED in the Recorder's office this 12th day of May 2021.

POSTED this ____ day of May 2021.

AFFADAVIT OF POSTING

OAKLEY CITY, SUMMIT COUNTY, STATE OF UTAH

I, the City Recorder of Oakley City, by my signature below, certify that copies of Ordinance 2021-05 for Oakley City, which **Passed and Adopted by the Oakley City Council, State of Utah on the 12th day of May, 2021**, was posted at the following places: Oakley City Hall Notice Board, The Oakley Post Office, the Oakley City website www.oakleycity.com and the city's social media pages.

Posted: May 12th 2021



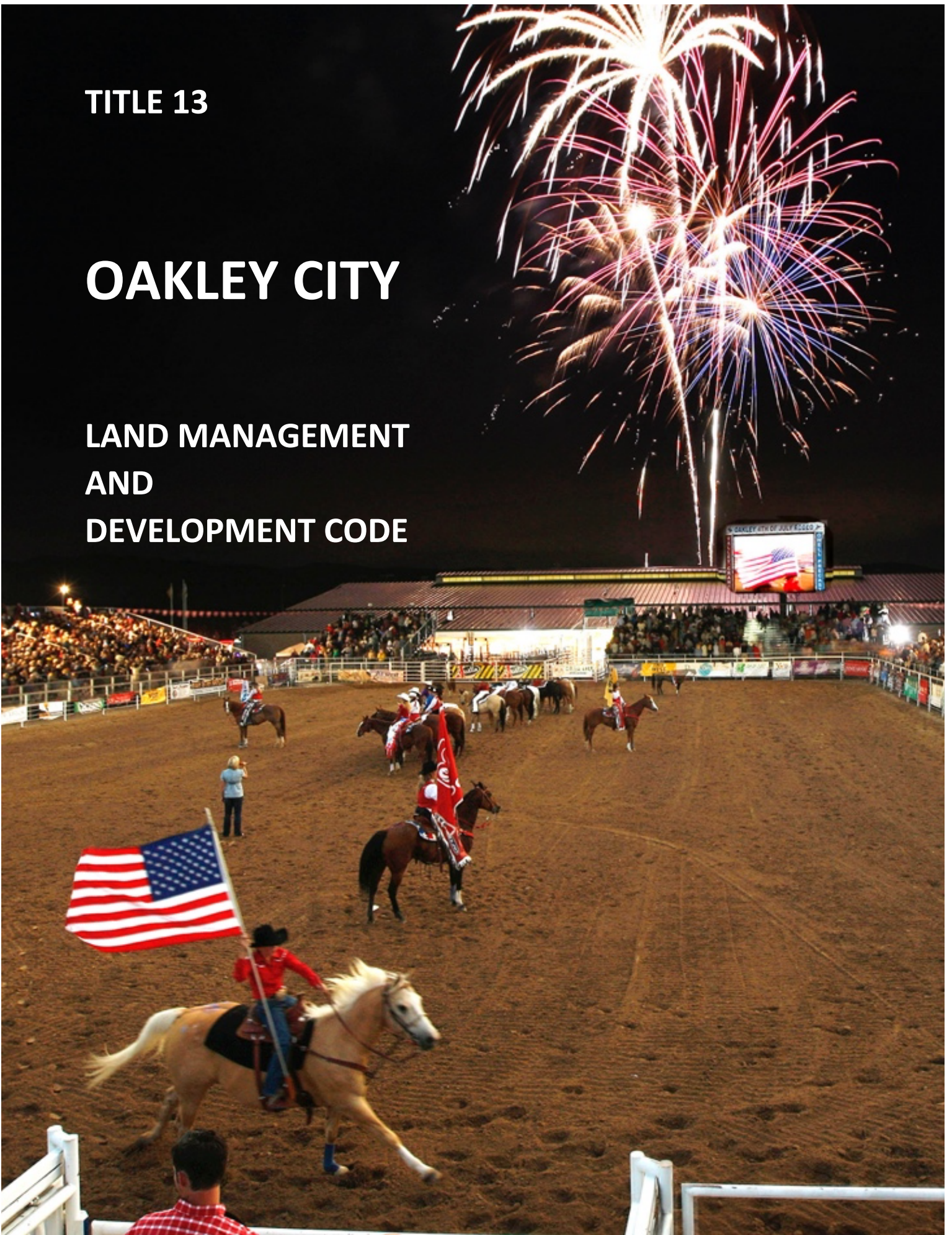
A handwritten signature in blue ink, which appears to read "Amy Rydalch", is written over a horizontal line. The signature is fluid and cursive in style.

Amy Rydalch, City Recorder

TITLE 13

OAKLEY CITY

**LAND MANAGEMENT
AND
DEVELOPMENT CODE**



**The Oakley City
Land Management and Development Code**



Adopted 5/12/2021

**Prepared by the Oakley City Staff
and Planning Commission**

Approved:

Attest:

Mayor, Wade Woolstenhulme

City Clerk

Table of Contents

CHAPTER 1	GENERAL PROVISIONS.....	4
CHAPTER 2	RURAL AGRICULTURE PROTECTION PROGRAM.....	18
CHAPTER 3	DEVELOPMENT EVALUATION STANDARDS.....	20
CHAPTER 4	ZONING DISTRICTS AND REQUIREMENTS	27
CHAPTER 5	DEVELOPMENT REVIEW PROCESSES AND PROCEDURES.....	58
CHAPTER 6	AFFORDABLE HOUSING	95
CHAPTER 7	INSTALLATION AND GUARANTEE OF DEVELOPMENT IMPROVEMENTS.....	112
CHAPTER 8	AMENDMENTS TO THIS TITLE AND ZONE DISTRICT MAP	120
CHAPTER 9	GENERAL REGULATIONS.....	123
CHAPTER 10	EXCAVATIONS, DRIVEWAYS, ENCROACHMENTS, AND STRUCTURES.....	190
CHAPTER 11	EXCAVATION, GRADING AND FILLING ON PRIVATE PROPERTY	195
CHAPTER 12	CONSTRUCTION IMPACT MITIGATION FOR DEVELOPMENT PROJECTS.....	200
CHAPTER 13	STORMWATER POLLUTION PREVENTION AND EROSION CONTROL	212
CHAPTER 14	NONSTORMWATER DISCHARGES.....	218
CHAPTER 15	SENSITIVE LANDS REGULATIONS	228
APPENDIX A	DEFINITIONS.....	263
APPENDIX B	MASTER PLANNED DEVELOPMENT OPEN SPACE AND BONUS DENSITY CALCULATIONS	288
APPENDIX C	ADULT/SEX ORIENTED FACILITIES AND BUSINESSES.....	292

CHAPTER 1 GENERAL PROVISIONS

SECTION CONTENTS:

- 13-1-1: Short Title**
- 13-1-2: Statement of Purpose**
- 13-1-3: Applicability**
- 13-1-4: Development Review Fees**
- 13-1-5: Planning Commission**
- 13-1-6: Joint Planning**
- 13-1-7: Conflict**
- 13-1-8: Effect on Previous Ordinances**
- 13-1-9: Penalty**
- 13-1-10: Interpretation**
- 13-1-11: Vested Rights Determination**
- 13-1-12: Enforcement**
- 13-1-13: Violations and Penalties**
- 13-1-14: Remedies**
- 13-1-15: Appeal Authority**
- 13-1-16: Appeal Procedures**
- 13-1-17: Appeal Decision**
- 13-1-18: Variances**
- 13-1-19: Annexations**
- 13-1-20: Public Notices**
- 13-1-21: Severability**
- 13-1-22: Conflicting Provisions**

13-1-1: SHORT TITLE:

This Title shall be known as the OAKLEY CITY LAND MANAGEMENT AND DEVELOPMENT CODE and is referred to herein as "this Title", or "this Code".

13-1-2: STATEMENT OF PURPOSE:

- A. The Oakley City General Plan (hereafter referred to as "the General Plan"), was developed to ensure that the rural, agricultural and small-town character of the of the City shall remain. It is the intent of the City, in adopting this Title, to fully exercise all of the powers granted to it by the provision of Utah Code Annotated

Title 10, for the appropriate regulation of development and changes and improvements to land use within Oakley City (hereafter referred to as “the City”).

- B. The intention of the City is to assure the managed, proper and sensitive development of land and to protect and enhance the rural, agricultural and small-town qualities and lifestyle that exist. This Title is intended to allow development in a manner that encourages the preservation of agricultural lands; the logical and appropriate growth of the City; is flexible with regard to location so long as a land use is compatible with its surroundings; preserves the natural resources and greenspaces; secures economy in the City and municipal expenditures in providing adequate transportation, public safety, and other public services; and promotes a diverse population and economy. This Title seeks to prevent or minimize development where it will otherwise increase potential dangers to life and safety of existing and future residents; adversely influences critical wildlife habitats and environmentally sensitive areas; requires substantial expenditures by the City to serve and protect and detracts from the rural, agricultural and small-town character of Oakley City.

13-1-3: APPLICABILITY:

This Title and the Zone District Map(s) shall be applicable to the entire geographic locale commonly referred to as Oakley City.

13-1-4: DEVELOPMENT REVIEW FEES AND APPLICATION FORMS:

From time to time the City Council may establish fees to be paid by applicants to the City for the purpose of covering specific City costs incurred during the review and processing of an application hereunder. The amount to be charged by the City shall be established by resolution of the City Council. Application forms may be developed from time to time to further the objectives of this Title and to simplify review processes established herein.

13-1-5: PLANNING COMMISSION:

- A. **Creation:** There is hereby established an Oakley City Planning Commission ("Planning Commission").
- B. **Powers and Duties:** The Planning Commission shall have the following powers and duties:
 - 1. To prepare or cause to be prepared a General Plan or element thereof and to recommend the proposed General Plan or element to the City Council;
 - 2. To prepare or cause to be prepared amendments to the General Plan or elements thereof and to recommend the amendments to the City Council;
 - 3. To review and make recommendations to the City Council in regard to amendments to the Zone District Map;

4. To initiate, hear, review and make recommendations to the City Council on applications for amendments to this Title;
5. To initiate a subpoena to compel documents and testimony required in the normal processing and review of matters pertaining to the Planning Commission;
6. To hear, review and approve or disapprove all applications for conditional uses and long-term temporary uses. To hear, review and recommend approval or disapproval of all applications for minor subdivision of property, cluster bonus/agricultural preservation subdivisions, major development review, master planned developments, development agreements or other procedures identified in this Title, in accordance with the rules and regulations established by the City Council and as stated in this Title; and
7. To adopt bylaws, policies, procedures and regulations for the conduct of its meetings, the consideration of applications for development approval, and for any other purposes deemed necessary for the functioning of the Planning Commission; provided, however, that the bylaws, policies, procedures and regulations shall be consistent with this Title and shall be approved by the City Council before taking effect.

C. **Qualifications for Membership:** Members of the Planning Commission shall have their primary residence in Oakley City and be a resident for six months prior to appointment. They shall also remain a resident of Oakley City throughout their term.

D. **Membership; Appointment, Terms, Removal, Vacancies and Compensation:**

1. The Planning Commission shall be composed of five (5) to seven (7) members to be appointed by the City Council. Any vacancy in the membership of the Planning Commission shall be advertised by public notices as provided per Section 13-1-20 of this Title, and applications accepted for a minimum of fourteen (14) days following such application and posting. Reappointments of existing Planning Commission members may be made by the City Council. In making appointment to the Planning Commission, the City Council shall assure diversity in the membership of the commission to the extent reasonably practicable by considering all relevant factors such as geographic diversity, occupational diversity, socioeconomic factors, cultural influences, and other similar criteria.
2. All members of the Planning Commission shall serve at the pleasure of the City Council and may be removed at any time by a majority vote of the City Council.
3. Members may be compensated per diem, based upon meetings attended and reasonable and necessary expenses, as determined by the City Council.
4. All members shall serve a term of four (4) years, except that in the case of the first Planning Commission appointed under the provisions of this

section, two (2) members shall be appointed for an initial term of two years (if there are 5 members), three (3) members shall be appointed for an initial term of two (2) years (if there are 6 or 7 members). Any vacancy created during the term of a member shall be filled for only the remainder of the unexpired portion of that term. No member shall serve more than three (3) consecutive terms, including portions of unexpired terms.

5. At the first meeting held in March, after the appointment of any new members, the members of the Planning Commission shall elect one of its members as chair and one member as vice chair. In the absence of the chair, the vice chair shall act as chair and shall have all powers of the chair. The chair shall serve a term of two years. No member shall serve as chair for more than two (2) consecutive two-year terms.
6. The chair, or in the chair's absence the vice chair, shall be in charge of all proceedings before the Planning Commission, and shall take such action as shall be necessary to preserve order and the integrity of all proceedings before the Planning Commission.
7. The City Planner or other designated City staff member shall maintain attendance records of members. It is expected that planning commission members will attend at least eighty percent (80%) of meetings in a 12-month period. Failure to meet this obligation may also be cause for removal by the City Council.

- E. **Recording Secretary:** The City Planner or designated planning staff member shall appoint a recording secretary to serve the Planning Commission. The secretary shall keep minutes of all proceedings of the Planning Commission, which minutes shall be a summary of all proceedings before the Planning Commission, attested to by a majority of the members of the Planning Commission voting. In addition, the recording secretary shall maintain all records of the Planning Commission meetings, hearings and proceedings, the correspondence of the Planning Commission, and a mailing list of persons registering to receive notices of meetings, agendas or minutes and who have paid an annual fee set by the City Council to solely cover the copying and mailing cost for receiving all notices and agendas.
- F. **Planning Commission Staff:** The City Planner and any other City staff or duly appointed professional shall act as the professional staff of the Planning Commission.
- G. **Quorum and Necessary Vote:** No meeting of the Planning Commission may be called to order without a quorum consisting of at least three (3) members in a five (5) member board, or four (4) members of a six (6) or seven (7) member board of the Planning Commission being present. No business shall be transacted without at least a majority of all members being present. All actions shall require the concurring vote of a majority of the members present, unless stricter voting procedures are established by the Planning Commission. The chair shall be

considered for purposes of establishing a quorum and shall act as a voting member, unless there are six (6) commissioners appointed, and if so, the chair will only vote as a tie breaker.

H. Meetings, Hearings and Procedures:

1. The Planning Commission shall establish a regular meeting schedule. Special meetings, work sessions and field trips for any purpose, may be held at the call of the City Council, City Mayor, the members of the Planning Commission or the City Planner or designated planning staff member.
2. If a matter is postponed due to lack of quorum, the matter shall be rescheduled to the next regular meeting. The City Planner or designated planning staff member shall notify all members and interested parties of the date of the rescheduled matter.

13-1-6: JOINT PLANNING:

In order to provide for coordination and a means to adequately address matters that overlap in any regional planning efforts, the City Council is authorized to require joint planning meetings for such matters. The City Planner or designated planning staff member shall notify the City Council of such matters and the City Council shall then determine whether joint planning sessions are required. The purpose of joint planning meetings is to provide for discussion among Planning Commission members of different Cities, Summit County, South Summit School District, public officials, developers and the public on various regional issues related to the matter in question. Notice of such joint planning sessions shall be for the purpose of discussion and education and are not intended to result in any formal recommendation during the joint planning sessions, although information presented at such sessions may be made part of the record of subsequent proceedings of each Planning Commission or other official body related to the matter in question. Upon completion of the joint planning sessions, the Planning Commission shall take action or make a recommendation on matters as required under this Title.

13-1-7: CONFLICT:

The provisions of this Title are in addition to all other City ordinances and the laws of the state. Whenever a conflict exists, the more restrictive provision shall apply to the extent allowed by law.

13-1-8: EFFECT ON PREVIOUS ORDINANCES:

This Title supersedes the Land Management and Development Code of Oakley City, adopted in 2015, as thereafter amended, and the zoning maps which accompanied said code. Structures that were lawfully built prior to the adoption of this Title, or for which

building permits were issued and on which work commenced as required under the permit shall, to the extent they do not conform to this Title, be considered as legal, nonconforming uses, and shall not be affected. Uses which were not lawfully established under the previous code and which do not conform to this Title are nonconforming uses, unless this Title is changed in a manner that makes the use conform to this Title.

13-1-9: PENALTY:

- A. Whenever under the provision of this Title an act is prohibited or whenever under these regulations the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, each violation of any such provision of this Title shall be a class C misdemeanor, subject to penalties as provided in Oakley City code. Each day a violation of these regulations continues shall constitute a separate offense, unless otherwise prohibited.
- B. The City attorney reserves the right to enforce this Title using any of the remedies provided for in Utah Code Annotated section 10-9-1002.

13-1-10: INTERPRETATION:

The City Planner shall be responsible for interpreting the provisions of this Title. Any final decision of the Planner with regard to the interpretation of this Title may be appealed to the Appeal Authority. The appeal shall be made in writing no later than ten (10) days of the date of the decision. The appeal shall state the basis of the appeal in detail. The appeal shall be heard by the Appeal Authority as soon thereafter as may be practicable.

13-1-11: VESTED RIGHTS DETERMINATION:

It is the intent of the City to review applications for development that were made prior to the adoption of this Title under the provisions of the code then in effect, so long as the application was determined to be complete prior to this Title. Applications submitted after the effective date hereof shall be reviewed under the provisions herein. The City Council shall develop a procedure for considering any vested rights claims that are affected by the approval of this Title and to effectuate public policy favoring the settlement disputes. Said procedure may include the processing of consent agreements for the settlement of disputes pertaining to vested rights or other legal claims arising from this Title. It is the intent of the City to adjudge vested rights in accordance with state law, and nothing in this section should be read or construed as suggesting a standard different from that provided by such state law.

13-1-12: ENFORCEMENT:

- A. **Generally:** This Title may be enforced by the City by any appropriate means authorized by state law and City ordinances, including, but not limited to, injunctive relief, fines, withholding of building permits and revocation of approvals/permits.
- B. **Duties of City Planner:** It shall be the duty of the City Planner or designated planning staff member to enforce these requirements and to bring to the attention of the City Attorney or his designated agent any violations of this Title.
- C. **Civil Enforcement:** Appropriate actions and proceedings may be taken in law or in equity to prevent any violation of this Title, to prevent unlawful construction, to recover damages, to restrain, correct or abate a violation and to prevent illegal occupancy of buildings, structures or premises. These remedies shall be in addition to the penalties described above.
- D. **Stay Order:** Notwithstanding any provision of this Title to the contrary, in order to maintain the status quo pending the appeal of any decision hereunder or otherwise, the City Planner or designated planning staff member may issue a stay order mandating that all development activities cease in accordance with the terms of the order. Said stay order may be appealed to the City Council within five (5) days of the receipt thereof by an aggrieved person.

13-1-13: VIOLATIONS AND PENALTIES:

- A. Whenever under the provision of this Title an act is prohibited or whenever under these regulations the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, each violation of any such provision of this Title shall be a class C misdemeanor, subject to penalty as provided in City code. Each day a violation of these regulations continues shall constitute a separate offense, unless otherwise prohibited.
- B. The City attorney reserves the right to enforce this Title using any of the remedies provided for in Utah Code Annotated section 10-9a-802.
- C. Businesses in violation of this Title shall be subject to license revocation proceedings in accordance with the provisions of Oakley City code. Such business shall also be subject to conditional use permit revocation proceedings in accordance with the provisions of the applicable Land Management and Development Code. Where revocations occur, those businesses which are legal nonconforming under the current Land Management and Development Code shall thereafter cease to be legal nonconforming uses within the City.

- D. Sexually oriented business employees in violation of this Title shall be subject to license revocation proceedings. A hearing shall be afforded to the individual by the City Council, or by an official whom the Mayor may designate. The individual shall be given written notice of the violation and an opportunity to be heard before the City Council or designated hearing official.

- E. It shall be unlawful to submit false or materially misleading information on or with a conditional use permit application for an adult/sex oriented facility or business or to fail to disclose or omit information for the purpose of obtaining said permit.

- F. Prior to any permit or license revocation hearing, as provided for by the applicable Land Management and Development Code, City business license ordinance, or this Title, a stay of enforcement action shall be granted, pending the outcome of the hearing and subsequent appeals, upon written application to the City by the permit or license holder.

13-1-14: REMEDIES:

No person may challenge in District Court a land use decision under this Title until they have exhausted all of their administrative remedies provided herein. Any person adversely affected by any final administrative decision made pursuant to this Title must file a petition for review of that final decision with the District Court within thirty (30) days and comply with all other requirements of Utah Code Annotated section 10-9a-801. Failure to comply with this section of the state law divests the District Court of subject matter jurisdiction to review decisions of the City.

13-1-15: APPEAL AUTHORITY:

- A. The position of Oakley City Appeal Authority (the "Appeal Authority") is created pursuant to Utah Code 10-9a-701 and the Municipal Land Use, Development, and Management Act, Utah Code 10-9a-101 et seq. (the "Act").

- B. The Appeal Authority shall be appointed by the Mayor 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.

- C. The Appeal Authority shall serve at the pleasure of the City Council pursuant to a written agreement between the City and the Appeal Authority. The Appeal Authority shall be considered an independent contractor and not a City employee. The terms and conditions of the contract, including compensation, shall ultimately be approved by the City Council prior to any individual entering into an agreement with the City to serve as the Appeal Authority. The

agreement shall automatically renew unless terminated for any reason or no reason by either party giving 30-day notice.

- D. The Appeal Authority is the city's appeal authority pursuant to section 10-9a-701 of the Act, and shall have the following powers and duties:
1. Hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by a land use authority in the enforcement or interpretation of Oakley City land use regulations or in the charging of a fee, where such appeal is not otherwise provided for. Appeals may not be used to waive or modify the terms or requirements of Oakley City land use regulations.
 2. Authorize variances from the terms of this title pursuant to the procedures and standards set forth in Utah State Code Section 10-9a-702 as amended.
 3. Adopt reasonable policies and procedures in accordance with City ordinances to govern the conduct of its meetings and hearings and for any other purposes considered necessary for the functioning of the position of Appeal Authority.
 4. Hold meetings and hearings as needed to consider matters within its purview under the City's land use regulations. The Appeal Authority meetings shall be held as deemed necessary by the Appeal Authority. All meetings shall be properly noticed and held in accordance with the Open and Public Meetings Act set forth in Utah Code Annotated section 52-4-101 et seq.
- E. There is no right to appeal a recommendation by the Planning Commission, a legislative action, including the granting or denial of a request for a zoning amendment or rezone, or any action by the Planning Commission or City Council that does not result in a final action or decision.

13-1-16: APPEAL PROCEDURES:

- A. No person may challenge in court any land use decision unless they have properly and timely appealed such decision as set forth herein. The failure to timely appeal a final land use decision shall forever bar all claims regarding such decision.
- B. Any person adversely affected by a final land use decision administering or interpreting a land use ordinance may, within 10 days after the decision, appeal that decision to the appeal authority by alleging that there is error in any order, requirement, decision, or determination made by the land use authority in the administration or interpretation of the land use ordinance. Planning Commission recommendations to the City Council and legislative actions are not subject to appeal.

- C. An appeal shall be made in writing and shall be filed with the City Recorder on an application form with required documentation and accompanied with the appropriate fees as required.
- D. The appeal shall specify the decision appealed, the alleged error made in connection with the decision being appealed, and the reasons the appellant claims the decision to be in error, including every theory of relief that can be presented in district court. The appellant has the burden of proving the decision appealed is incorrect. Only information and claims that were previously presented as part of the land use application, hearings, or process may be submitted.
- E. An appeal filed with to the Appeal Authority shall stay all further proceedings concerning the matter about which the appealed order, requirement, decision, determination, or interpretation was made until such time a decision is rendered by the Appeal Authority.
- F. Upon receipt of an appeal of an administrative decision, the Appeal Authority shall schedule and hold a public meeting in accordance with the standards and procedures set forth in this Section and the Utah Open and Public Meetings Act. Notification of the date, time and place of the hearing shall be given to the appellant, the respondent (i.e., the land use applicant), and the city at least 7 calendar days before the public meeting.
- G. All appeals shall be heard within 60 days after the filing of the appeal. Appeals not heard within this time frame due to the appellant's failure to expeditiously pursue its appeal will be considered void and withdrawn by the appellant.
- H. All meetings of the Appeal Authority shall be recorded and minutes prepared and filed in the Office of the City Recorder for review and access by the public in accordance with Utah State Law.

13-1-17: APPEAL DECISION:

- A. The Appeal Authority shall respect the due process rights of each of the parties and shall give all parties a reasonable opportunity to present written or oral arguments before making a decision.
- B. In reviewing the land use decision being appealed, the Appeal Authority shall:
 1. Only consider information and claims that were previously presented as part of the land use application, hearings, or process;
 2. Presume that a final decision of a land use authority is valid;

3. Interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application; and
 4. Uphold the land use decision unless:
 - a. it is not supported by substantial evidence in the record;
 - b. it is based on an incorrect interpretation of a land use regulation; or
 - c. it violates a law, statute, or ordinance in effect when the decision was made.
- C. The Appeal Authority shall render a written decision on the appeal. Such decision may reverse or affirm, wholly or in part, or may modify the land use decision.
- D. The decision of the Appeal Authority takes effect on the date when the Appeal Authority issues a written decision.
- E. The City or any person adversely aggrieved by a decision of the Appeal Authority may have and maintain a plenary action for relief therefrom in any court of competent jurisdiction, provided the petition for such relief is presented to the court within thirty (30) calendar days after the date of such decision. Only information and claims that were previously presented as part of the land use application, hearings, or process may be submitted to and be considered by the Court.

13-1-18: VARIANCES:

- A. **Waiver, Modification, Or Variance:** Any person or entity desiring a waiver or modification of the requirements of this chapter as applied to a parcel that he/she owns, leases, or in which he/she holds some other beneficial interest may apply to the Appeal Authority for a variance from the terms of this chapter.
- B. **Prohibited Variances:** The Appeal Authority may not grant a use variance.
- C. **Standards:** The Appeal Authority may grant a zoning variance only if:
 1. Literal enforcement of the Code would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this chapter;
 2. There are special circumstances attached to the parcel that do not generally apply to other parcels within the same zone;
 3. Granting the zoning variance is essential to the enjoyment of a substantial property right possessed by other property owners in the same zone;

4. The zoning variance will not substantially affect the General Plan and will not be contrary to the public interest; and
 5. The spirit of this chapter is observed and substantial justice done.
- D. **Unreasonable Hardship:** In determining whether enforcement of this chapter would cause unreasonable hardship, the Appeal Authority must find that:
1. The alleged hardship is located on or associated with the parcel for which the zoning variance is sought; and
 2. The alleged hardship comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood; and
 3. The alleged hardship is not self-imposed or purely economic in nature.
- E. **Special Circumstances:** In determining whether or not there are special circumstances attached to the parcel, the Appeal Authority must find that:
1. The circumstances relate to the hardship complained of; and
 2. The circumstances deprive the property of privileges granted to other properties in the same zone.
- F. **Conditions:** In approving a zoning variance, the Appeal Authority may impose additional requirements on the applicant that will:
1. Mitigate any harmful effects of the zoning variance; or
 2. Serve the purpose of the standard or requirement that is waived or modified.
- G. **Run with the Land:** Zoning variances shall run with the land.
- H. **Review Procedure:**
1. The City Planner shall review the application for a zoning variance and make preliminary findings as to whether the application complies with the standards for approving a zoning variance established in this chapter.
 2. If applicable, the City Planner may secure input regarding the proposed request from any affected agencies and service providers. Upon receiving such information, the City Planner shall prepare a report and make proposed findings and recommendations and shall schedule a public hearing before the Appeal Authority.
 3. The Appeal Authority shall review the application and staff report. After conducting a public hearing, the Appeal Authority shall take final action on the application for a zoning variance.

13-1-19: ANNEXATIONS:

Land shall only be annexed into the city of Oakley under and in accordance with the Utah State governing statutes (10-2-4 Utah Code) at the time of annexation petition. As

part of the annexation process, applicants for annexation shall submit a written petition of annexation, stating the proposed land use for the property. The petition shall be accompanied by a survey map of the property, produced by a licensed surveyor. The City Council may not annex any property into the City boundaries without first receiving a recommendation (whether favorable or not) on such annexation from the Planning Commission.

All land hereafter annexed to the City shall be initially classified in the Agricultural Zone (AR-40) until:

- A. The Planning Commission shall submit its recommendations for a revised zoning of the land to the City Council; and
- B. The City Council shall hold a public hearing thereon as required for amendments to the Zoning Ordinance and Zoning Map as detailed in this Title.
- C. Public Hearings for annexation and public hearings for the revised or proposed zoning may be held concurrently on the same date and time.

13-1-20: PUBLIC NOTICES:

- A. **Notice Methods:** All meetings shall be properly noticed and held in accordance with the Open and Public Meetings Act set forth in Utah Code Annotated section 52-4-101 et seq. Notices of any public hearing will be posted at least ten (10) days in advance at the City Hall and the Post Office. Public notices will also be posted on the City web site (oakleycity.com) and on popular social media sites. All public notice(s) will also be posted in a timely manner and as prescribed by law on the Utah Public Notice Website (63F-1-701 Utah Code).
- B. **Mailed Notice to Property Owners:** Where required, the City Planner or designated planning staff member will send public hearing notices to all property owners located within one thousand feet (1,000') from any boundary of the property subject to a development application. When properties located within one thousand feet (1,000') are part of an association of property owners, a courtesy notice should be sent to the property owners' association. The addresses for adjacent owners shall be as shown on the most recently available county tax assessment rolls. The notice shall state that an application has been filed affecting the subject property, the nature of the application or action, and the time, place and date set for public hearing on the matter. Failure to notify property owner associations or individual property owners not specifically identified on the most recently available county tax assessment rolls shall not affect or invalidate any hearing or action by any board or commission. The applicant shall pay the cost for the City to provide this service.

- C. **Proof of Notice:** If notice given under authority of this section is not challenged as provided for under State law within thirty (30) days from the date of the hearing for which the challenged notice was given, the notice is considered adequate and proper.

13-1-21: SEVERABILITY:

This ordinance and the various parts, sections, and clauses are hereby declared to be severable. If any part, section, paragraph, sentence, clause, or phrase is adjudged to be unconstitutional or invalid, it is hereby declared that the remainder of the ordinance shall not be affected thereby. The City Council of Oakley, Utah hereby declares that it would have passed this ordinance on each part, section, paragraph, sentence, clause or phrase thereof: irrespective of the fact that any one (1) or more portions thereof be declared invalid.

13-1-22: CONFLICTING PROVISIONS:

The provisions of this Code are in addition to all other City ordinances, the Laws of the State of Utah, the Laws of the United States, and applicable common law. This Code shall not supersede any private land use regulations in deeds or covenants which are more restrictive than this Code. Whenever a conflict exists, the more restrictive provision shall apply to the extent allowed by law.

CHAPTER 2 RURAL AGRICULTURE PROTECTION PROGRAM

SECTION CONTENTS:

- 13-2-1: Statement of Purpose**
- 13-2-2: Rural Agriculture Protection**
- 13-2-3: Cluster Bonus/Agriculture Preservation Incentive Subdivision**

13-2-1: STATEMENT OF PURPOSE:

The Oakley City General Plan (hereafter referred to as "the General Plan") was developed to ensure that the rural, agricultural, and small-town character of the City shall remain, even in the presence of growth and change. The intention of the City is to assure the managed, proper and sensitive development of land to protect and enhance these desired qualities and the lifestyle that exists. In adopting the Oakley City Land Management and Development Code (hereafter referred to as "this Title"), the City will fully exercise all of the powers granted to it by Utah Code Annotated Title 10, to require, to the extent possible and practical, that all development and change within Oakley City will occur in a manner that is consistent with the goals and expectations of the residents. In order to accomplish the stated purpose, this Title will:

- A. Protect the right to farm in Oakley City and promote and encourage the preservation of agricultural lands, operations and open greenspaces.
- B. Establish incentives for preserving active agriculture lands and operations.
- C. Allow simple procedures for landowners to undertake minor subdivisions of property to increase opportunities for residents and local workers to live in Oakley City.
- D. Protect existing businesses that are important to the Oakley City economy from the encroachment of new residential development.
- E. Allow appropriate flexibility with regard to the location of land uses and other zoning matters, so long as the resulting use of the land is compatible with its surroundings and generally consistent with the general plan.
- F. Ensure that new development is undertaken in a manner that is sensitive to the rural, agricultural and small-town character, and make every effort to ensure that new development will not bring about change that is inconsistent with the underlying community values and resources.
- G. Prevent or minimize development when it will significantly increase potential dangers to life and safety of existing and future residents and emergency service personnel.

- H. Require a commonsense approach to development and ensure that people choosing to locate in the remote areas of the City recognize and accept the possible consequences of their actions.
- I. Preserve the natural resources of Oakley City.
- J. Ensure that development is compatible with wildlife habitats and environmentally sensitive areas.
- K. Ensure that the City and Summit County cooperate in guiding development near the boundaries of the City.
- L. Protect private property rights.

13-2-2: RURAL AGRICULTURE PROTECTION:

Maintaining viable agricultural lands and operations and rural business enterprises is crucial to the public health, safety and welfare of Oakley City. New development must assume the responsibility for creating a compatible relationship with the normal operations of these activities. To this end, no subdivision plat shall be approved by the City without a plat note containing the language stated below. No building permit shall be issued for any previously platted lot without an acknowledgment in the building permit or permit attachment containing the language stated below. It shall state:

The owners of property within Oakley City recognize the importance of agricultural lands and operations and small rural business enterprises. It is recognized that agricultural lands and operations and rural business enterprises have unique operating characteristics that must be respected. (Owners of each lot platted in this subdivision/the owner of the residence constructed upon this lot) have/have been given notice and recognizes that there are active agriculture lands and operations and rural business enterprises within Oakley City and acknowledges and accepts that, so long as such lands and operations exist, there may be dust, noise, odor, prolonged work hours, use of roadways for the purposes of herding/moving animals, and other attributes associated with normal agricultural operations and rural businesses.

13-2-3: CLUSTER BONUS/AGRICULTURE PRESERVATION INCENTIVE SUBDIVISION:

The cluster bonus/agriculture preservation incentive of Master Planned Development (MPD) subdivisions is hereby created to promote the retention of agricultural land and operations in Oakley City (see Appendix B). It is specifically intended to assist those actively engaged in farming and ranching and to increase opportunities for residents and local workers to live in Oakley City. A density bonus shall be awarded to property owners only if it results in the preservation of actively used agricultural lands. Chapter 5 of this Title defines the procedures related to the Master Planned Development (MPD) type subdivision.

CHAPTER 3 DEVELOPMENT EVALUATION STANDARDS

SECTION CONTENTS:

- 13-3-1: **Purpose**
- 13-3-2: **Agriculture**
- 13-3-3: **Water and Wastewater**
- 13-3-4: **Natural Resources**
- 13-3-5: **City Infrastructure, Facilities and Services**
- 13-3-6: **Infrastructure Design and Maintenance**

13-3-1: **PURPOSE:**

- A. **Purpose:** The purpose of this chapter is to establish a set of development guidelines applicable to any development within Oakley City. These guidelines are necessary and desirable in order to: 1) protect the City's rural, agricultural, small town character and lifestyle; 2) protect the natural resources and ecologically and environmentally sensitive areas of Oakley City; and 3) facilitate the efficient use of the land in relation to the City's ability to ensure the availability of adequate services and infrastructure.

- B. **Standards; Compliance:** The following standards shall be applied to the review of any development application submitted in accordance with the provisions of this Title. Nothing in this chapter shall be construed to prevent the City from allowing an applicant to propose and agree to implement acceptable and suitable solutions to such impacts which otherwise result in a finding of noncompliance with these standards.

13-3-2: **AGRICULTURE:**

- A. **Plat Notes and Memorandums:** Nonagricultural development shall not be approved without appropriate plat notes, as described in Chapter 2 of this Title, that educate new residents of the presence of agriculture operations in Oakley City and protect the rights of farmers and ranchers to actively conduct normal operations associated with the farm or ranch.

- B. **Minimization of Complaints:** Nonagricultural development shall not be approved in an agricultural area without appropriate efforts from the developer to minimize potential complaints from future residents of the development regarding noise, odor, length of work hours, and the normal characteristics of the agricultural operation.

- C. **Livestock Fencing:** New, nonagricultural development of property immediately adjacent to an existing agricultural operation (defined by this Title as "agriculture") shall be required to provide fencing as follows:
1. The developer and/or subsequent owners of property within the development shall be required to participate in the fencing of the development along the agricultural property and development, up to one half of the cost of such fence, if:
 - a. The fence is requested by the adjoining agricultural landowner;
 - b. The fence is or becomes a partition fence separating the project site from the adjoining agricultural landowner's property; and
 - c. The cost, type, and construction of the fence is reasonable for the type of fence commonly found in that particular area.
 2. Notwithstanding the above fencing requirement, the developer may, at his or her own discretion, cost and expense, construct a perimeter fence to enclose the development. Vinyl fencing must be evaluated for durability, be livestock safe, and approved by the City as a perimeter fence for any development. Privacy fencing in Agricultural (AR) zones and Rural Residential (RR) zones is only allowed with an approved Low Impact permit as per section 13-9-24.
 3. In project areas including wildlife migration corridors or critical wildlife habitat, as determined by the state division of wildlife resources (DWR), wildlife friendly fencing may be considered with the following recommended design standards:
 - a. Total fence height should not exceed forty-two inches (42").
 - b. The space between the two (2) top wires (of a wire fence) should be at least twelve inches (12") apart with the top wire preferable being a smooth wire without barbs.
 - c. The bottom wire should be at least thirteen inches (13") from the ground and smooth.
- D. **Preservation of Agricultural Land:** New nonagricultural development within Oakley City shall preserve productive agricultural land to the extent possible and practical.
- E. **Irrigation Patterns and Systems:** Nonagricultural development shall preserve the integrity of existing irrigation patterns and systems. Surface irrigation ditches shall be mapped, and adequate easements of record created to allow for the proper operation and maintenance of all irrigation systems.

13-3-3: WATER AND WASTEWATER:

All development proposals and building permit applications must demonstrate that the project will meet all current and applicable Oakley City Water and Wastewater

Ordinances, Rules and Regulations, as well as all relevant construction standards and specifications before approval. The City Engineer shall approve all water and wastewater plans, specifications, improvements, and connections.

13-3-4: NATURAL RESOURCES:

The Land Use Authority shall review all applications for compliance and consistency with the following development evaluation standards:

- A. **Undevelopable Lands:** Development is prohibited on land which is found, on the basis of engineering and/or geologic data, to be within a geological hazard area. Notwithstanding the foregoing prohibition, development upon lands containing geologic hazards may be allowed by approval of the City Planner in cases where the developer demonstrates that the geologic hazard is fully mitigated so as to ameliorate the risks to health, safety and the general welfare of residents by appropriate design and construction techniques.
- B. **Erosion:** Care shall be taken to ensure that development shall not contribute to the acceleration of the erosion of soil and rock and stream sedimentation or cause other significant environmental concerns.
- C. **Hillside Development:** Development shall minimize the highly visible placement of homes and other structures on hillsides. Whenever possible, development shall be sensitively sited in order to encourage effective open space and the conservation of the natural appearance and aesthetic beauty of the mountains. When hillside development is permitted, it shall be integrated into the site, using topography, vegetation and other reasonable techniques, in a manner that causes it to blend into the hillside. Development near the toe of the hill, including the transitional area between the hillside and flat meadow areas, is appropriate. See Chapter 15 of this Title for hillside development regulations in the Sensitive Lands Overlay (SLO) Zone.
- D. **Floodplain:** All development shall comply with the Oakley City Flood Damage Prevention Ordinance 2021-2, or its most recent update. Development shall be strongly discouraged in a 100-year floodplain or in areas where there is a high-water table.
 - 1. Development shall meet all requirements of the Federal Emergency Management Agency.
 - 2. Development shall not significantly alter the natural drainage patterns of the land.
- E. **Wetlands:** Development is prohibited within jurisdictional wetlands as defined and/or delineated using Army Corps of Engineers standards, unless appropriate mitigation is approved by the Army Corps of Engineers.

- F. **Natural Grade Slopes (Prohibition):** Development is prohibited on natural grade slopes in excess of thirty percent (30%). Additional rules apply in a Sensitive Lands Overlay (SLO) zone, (see chapter 15).
- G. **Natural Grade Slopes (Exception):** In the event a conforming parcel has no locations (or insufficient area) for otherwise permissible development without violating subsection F of this section, or in the event access to a suitable development area on a conforming parcel requires the crossing of an area of thirty percent (30%) slope, the City Planner may approve development as a low impact permit subject to the findings in section 13-5-8 of this Title and the following additional findings:
1. The proposed development is located on the least environmentally sensitive portion of the site. The development is designed so that existing significant vegetation can be maintained to the greatest degree possible;
 2. Development is designed to fit well into the natural terrain, minimize excessive site grading and protect, preserve, and enhance the level of quality of the surrounding area;
 3. To the greatest extent possible, all driveways and walkways shall parallel slope contours;
 4. The structure is designed to be stepped to follow the natural line of the existing topography; and
 5. The applicant demonstrates to the satisfaction of the building official that the soil is stable or can be stabilized to minimize erosion and is suitable for construction activity.
- H. **Wildlife, Range Areas, Migration Corridors:** Care shall be taken to ensure that development shall not significantly affect in a negative fashion any wildlife birthing areas, critical winter range areas and migration corridors.
- I. **Ridgeline Development (Prohibition):** Ridgeline development shall not be placed on any hillside or ridgeline in a manner that causes any portion of a structure to extend into the skyline as viewed from a public road when:
1. The public road is located below the ground elevation of the structure; and
 2. The public road is more than one-half (1/2) linear mile from the structure measured from the proposed building location; and
 3. The public road is less than one and one-half (1-1/2) linear miles from the structure, measured from the proposed building location.
- J. **Ridgeline Development (Exception):** Where it is not possible to build on a conforming parcel without violating the prohibition in subsection I of this section, the City Planner may approve ridgeline development as a low impact permit

subject to the findings in section 13-5-8 of this Title and all of the following additional criteria:

1. The proposed ridgeline development is located on the least environmentally sensitive portion of the site. The development is designed so that existing significant vegetation can be maintained to the greatest degree possible.
2. The proposed ridgeline development shall be located to ensure that the least amount of the structure extends into the skyline.
3. The height of all structures shall be limited to twenty-six feet (26').
4. The structure is stepped in levels to conform to the slope of the hill and keep a low profile.
5. Except for flashings, roof vents and equipment, the structure shall not use highly reflective finish materials. In the event flashings, roof vents and equipment are used, such shall be painted to match the structure.
6. Structure colors shall be consistent with the natural colors of the surrounding geology and vegetation.
7. Glass areas are limited so as to avoid highly reflective surfaces which are viewed from public roads. Mirrored glazing is prohibited.
8. The structure shall be designed so that the pitch of any roof is generally parallel to the slope upon which it is located.

K. **Drainage:** Development activity shall not cause run-off characteristics of a parcel to be more disruptive to perennial, intermittent and ephemeral streams, land uses or drainage systems, than existed prior to the development activity. The integrity of existing and natural drainage patterns shall be preserved so that:

1. The aggregate of development activities will not cause storm drainage and floodwater patterns to exceed the capacity of natural or constructed drainages;
2. Other areas are not subjected to increased potential for damage by flood, erosion or sedimentation; and
3. Perennial, intermittent, and ephemeral streams are not contaminated with pollutants in violation of State and/or Federal standards.

L. **Air Quality:** Development shall not contribute significantly to the degradation of air quality in the City, including violation of any applicable State and/or Federal pollution control laws.

M. **Noise Limits:** Non-agriculture development activity shall not generate noise:

1. Equal to or exceeding sixty (60) decibels, as measured at the property line of the parcel generating the noise; and
2. Which would result in materially adverse impacts relating to the use of the parcel generating the noise, or to adjacent parcels and/or its occupants.

13-3-5: CITY INFRASTRUCTURE, FACILITIES AND SERVICES:

- A. **Impact:** Major development shall be evaluated to determine its impact on the quality of public services, facilities or programs provided to the general community, or portions thereof. It is the policy of the City to ensure that the financial integrity of existing City services is not jeopardized by over extension, inadequately or poorly phased use levels or lack of revenue base as a result of new development. Any adverse impacts caused by the development shall be minimized.
- B. **Traffic Volume:** No development shall cause the traffic volume on any public road or intersection thereon, affected by the proposed subdivision, to fall below the design capacity of the roadway, as measured by the "Highway Capacity Manual" (Transportation Research Board, Special Report 209, 1985).
- C. **Fire Hazard:** Any development that, due to size, building materials or proximity to vegetation, presents an unusual fire hazard which is beyond the firefighting capability of the South Summit Fire District within which it is located is inappropriate and will not be approved by the City.
- D. **Remote Locations:** Development in remote locations that will adversely and unreasonably affect the firefighting or emergency service capability of the South Summit Fire District within which it is located to provide adequate service to the majority of the people located within the District, is inappropriate and will not be approved by the City.
- E. **Locked Gates on Private Roads:** As a general rule, gated subdivisions are discouraged. Residential development, with private roads providing direct access to residential properties, will not be approved if there is a locked gate at the entrance to the residential property unless the developer/owner has made prior arrangements with the City operations, including Summit County Sheriff, and South Summit Fire District for emergency access to the property.

13-3-6: INFRASTRUCTURE DESIGN AND MAINTENANCE:

- A. **Rural Standards:** Oakley City shall maintain rural infrastructure design standards. Infrastructure that is not consistent with these standards is not appropriate. Water, Sewer, and Roadways shall be designed, engineered and constructed appropriately so as to minimize oversizing, limits of disturbance, future maintenance costs, to alleviate hillside visual and functional problems, and to avoid deep cuts or large fills.
- B. **Traffic Hazards:** No development shall be approved which will create traffic hazards or which does not provide adequate access for service vehicles and

emergency vehicles, including fire trucks, ambulances and sheriff vehicles, water or sewer maintenance equipment, or which is not designed to facilitate reasonable removal or storage of snow from traffic areas.

- C. **Traffic Volume:** No development shall be approved which generates traffic volumes that require roads to be built or existing roads to be expanded in a manner not consistent with the rural infrastructure standards identified in this Title.

- D. **Maintenance Responsibility:** No major residential development shall be approved without adequate evidence of proper long term maintenance responsibilities of an association of the property owners for all privately maintained infrastructure, including, but not limited to, road maintenance, snow removal, fuel breaks for firefighting, and other specific requirements as may be appropriate.

CHAPTER 4 ZONING DISTRICTS AND REQUIREMENTS

SECTION CONTENTS:

- 13-4-1: Establishment of Zone Districts**
- 13-4-2: Community Residential-2 (CR-2)**
- 13-4-3: Community Residential-3 (CR-3)**
- 13-4-4: Community Residential-4 (CR-4)**
- 13-4-5: Rural Residential-1 (RR-1)**
- 13-4-6: Rural Residential-2 (RR-2)**
- 13-4-7: Agricultural Residential-5 (AR-5)**
- 13-4-8: Agricultural Residential-10 (AR-10)**
- 13-4-9: Agricultural Residential-20 (AR-20)**
- 13-4-10: Agricultural Residential-40 (AR-40)**
- 13-4-11: Agricultural Forestry-100 (AF-100)**
- 13-4-12: Commercial (C)**
- 13-4-13: Light Manufacturing and Industrial (LM)**
- 13-4-14: Village Mixed-Use (VM)**
- 13-4-15: Public Facilities (PF)**
- 13-4-16: Sensitive Lands Overlay (SLO)**
- 13-4-17: Zone District Map**
- 13-4-18: Allowed, Conditional, Low Impact, And Temporary Uses**
- 13-4-19: Chart of Allowed and Permitted Uses**

13-4-1: ESTABLISHMENT OF ZONE DISTRICTS:

Zone Districts and their related regulations are established in this Chapter. New zoning and land use standards or requirements established herein, (i.e., setbacks, sizing, height, etc.) apply to all new subdivisions, MPD's, and other developments. Building permit applications for single family residences within 10 years from the recordation of their relevant subdivision plat are subject to the regulations which were in effect at the time of said plat recordation. To carry out the purposes and provisions of this chapter, the following zone districts are permitted within Oakley City. NOTE: Not all approved zones need be utilized in the current version of the City Zoning Map:

- Community Residential-2 (CR-2)**
- Community Residential-3 (CR-3)**
- Community Residential-4 (CR-4)**
- Rural Residential-1 (RR-1)**

Rural Residential-2 (RR-2)
Agricultural Residential-5 (AR-5)
Agricultural Residential-10 (AR-10)
Agricultural Residential-20 (AR-20)
Agricultural Residential-40 (AR-40)
Agricultural Forestry-100 (AF-100)
Commercial (C)
Light Manufacturing and Industrial (LM)
Village Mixed-Use (VM)
Public Facilities (PF)
Sensitive Lands Overlay (SLO)

13-4-2: COMMUNITY RESIDENTIAL-2 (CR-2):

- A. **District Intent:** In some central designated areas, higher density and multi-family residential buildings may be established to provide a residential environment within the City, characterized by a residential community setting and associated uses. This land use is intended to have a residential density higher than the lower-density residential areas specified above while maintaining a healthy residential character. Community Residential areas accommodate a density of two (2) or more residential units per acre.
- B. **Lot and Site Requirements:** Except as otherwise provided in this Code, no building permit shall be issued unless the property meets the requirements below:
1. **Parcel or Lot Size and Base Density:**
 - a. The base density is two (2) units per acre or 0.5 acres per unit.
 - b. The minimum lot size is one half acre.
 - c. Lots that are approved through a subdivision and clustered master planned development process and provided with public culinary water and sewer service may be permitted minimum lot sizes down to one-quarter (1/4) acre.
 - d. A grandfathered parcel is exempt from the minimum size requirement.
 - e. For Master Planned Development (MPD) projects following the provisions of 13-5-10, and Appendix B of this Title, additional bonus density may be awarded through a site analysis and development agreement.
 2. **Parcel or Lot Width:**
 - a. The minimum parcel or lot width is one hundred feet (100') measured at the front setback line. In the case of unusual parcel or lot configurations such as cul-de-sacs, etc., width standards shall be determined by the City Planner, or his/her designee. Lots

approved through a subdivision and master planned development process and provided with culinary water and sewer service may be permitted a reduction in the minimum lot widths standard. A grandfathered parcel is exempt from the minimum lot width requirement. See 13.9.21 for panhandle or flag lot standards.

3. **Setbacks:** Unless otherwise indicated on a recorded plat or an approved site plan, the minimum setbacks on all new construction, shall be as follows (Exception: River or perennial stream setbacks do not apply to existing small lots recorded prior to the year 2021 which would preclude or limit a previously approved type of use) Additional setbacks may be required if in a Sensitive Lands Overlay Zone (see Chapter 15):

Location	Minimum Setback
Front setback	25 feet from property line
Front setback if property lines extend to the center of a public road	55 feet from the centerline of the road
Front setback if property lines extend to the center of a private access road	55 feet from the centerline of the road
Side setback	8 feet from property line
Rear setback	12 feet from property line
Wetland	40 feet from delineation line as defined by the Army Corps of Engineers
River or perennial stream	100 feet from ordinary high-water mark
Lake or natural pond	50 feet from ordinary high-water mark
Forest Service	100 feet from property line

- B. **Height:** The maximum height for all structures shall be thirty-two feet (32') above natural grade.
- C. **Uses:** Uses in the CR-2 Zoning District are those set forth in section 13-4-16, "Chart of Allowed and Permitted Uses", of this chapter.

13-4-3: COMMUNITY RESIDENTIAL-3 (CR-3):

- A. **District Intent:** In some central designated areas, higher density and multi-family residential buildings may be established to provide a residential environment within the City, characterized by a residential community setting and associated uses. This land use is intended to have a residential density higher than the lower-density residential areas specified above while maintaining a healthy residential

character. Community Residential areas accommodate a density of two (2) or more residential units per acre.

- B. Lot and Site Requirements:** Except as otherwise provided in this Code, no building permit shall be issued unless the property meets the requirements below:
1. **Parcel or Lot Size and Base Density:**
 - a. The base density is three (3) units per acre or 0.33 acres per unit.
 - b. The minimum lot size is one third acre.
 - c. Lots that are approved through a subdivision and clustered master planned development process and provided with public culinary water and sewer service may be permitted minimum lot sizes down to one-quarter (1/4) acre.
 - d. A grandfathered parcel is exempt from the minimum size requirement.
 - e. For Master Planned Development (MPD) projects following the provisions of 13-5-10, and Appendix B of this Title, additional bonus density may be awarded through a site analysis and development agreement.
 2. **Parcel or Lot Width:**
 - a. The minimum parcel or lot width is one hundred feet (100') measured at the front setback line. In the case of unusual parcel or lot configurations such as cul-de-sacs, etc., width standards shall be determined by the City Planner, or his/her designee. Lots approved through a subdivision and master planned development process and provided with culinary water and sewer service may be permitted a reduction in the minimum lot widths standard. A grandfathered parcel is exempt from the minimum lot width requirement. See 13.9.21 for panhandle or flag lot standards.
 3. **Setbacks:** Unless otherwise indicated on a recorded plat or an approved site plan, the minimum setbacks on all new construction, shall be as follows (Exception: River or perennial stream setbacks do not apply to existing small lots recorded prior to the year 2021 which would preclude or limit a previously approved type of use) Additional setbacks may be required if in a Sensitive Lands Overlay Zone (see Chapter 15):

Location	Minimum Setback
Front setback	25 feet from property line
Front setback if property lines extend to the center of a public road	55 feet from the centerline of the road

Front setback if property lines extend to the center of a private access road	55 feet from the centerline of the road
Side setback	8 feet from property line
Rear setback	12 feet from property line
Wetland	40 feet from delineation line as defined by the Army Corps of Engineers
River or perennial stream	100 feet from ordinary high-water mark
Lake or natural pond	50 feet from ordinary high-water mark
Forest Service	100 feet from property line

- B. **Height:** The maximum height for all structures shall be thirty-two feet (32') above natural grade.
- C. **Uses:** Uses in the CR-3 Zoning District are those set forth in section 13-3-16, "Chart of Allowed and Permitted Uses", of this chapter.

13-4-4: COMMUNITY RESIDENTIAL-4 (CR-4):

- A. **District Intent:** In some central designated areas, higher density and multi-family residential buildings may be established to provide a residential environment within the City, characterized by a residential community setting and associated uses. This land use is intended to have a residential density higher than the lower-density residential areas specified above while maintaining a healthy residential character. Community Residential areas accommodate a density of two (2) or more residential units per acre.
- B. **Lot and Site Requirements:** Except as otherwise provided in this Code, no building permit shall be issued unless the property meets the requirements below:
 - 1. **Parcel or Lot Size and Base Density:**
 - a. The base density is four (4) units per acre or 0.25 acres per unit.
 - b. The minimum lot size is one quarter acre.
 - c. Lots that are approved through a subdivision and clustered master planned development process and provided with public culinary water and sewer service may be permitted minimum lot sizes down to one-fifth (1/5) acre.
 - d. A grandfathered parcel is exempt from the minimum size requirement.
 - e. For Master Planned Development (MPD) projects following the provisions of 13-5-10, and Appendix B of this Title, additional

bonus density may be awarded through a site analysis and development agreement.

2. **Parcel or Lot Width:**
 - a. The minimum parcel or lot width is one hundred feet (100') measured at the front setback line. In the case of unusual parcel or lot configurations such as cul-de-sacs, etc., width standards shall be determined by the City Planner, or his/her designee. Lots approved through a subdivision and master planned development process and provided with culinary water and sewer service may be permitted a reduction in the minimum lot widths standard. A grandfathered parcel is exempt from the minimum lot width requirement. See 13.9.21 for panhandle or flag lot standards.
3. **Setbacks:** Unless otherwise indicated on a recorded plat or an approved site plan, the minimum setbacks on all new construction, shall be as follows (Exception: River or perennial stream setbacks do not apply to existing small lots recorded prior to the year 2021 which would preclude or limit a previously approved type of use) Additional setbacks may be required if in a Sensitive Lands Overlay Zone (see Chapter 15):

Location	Minimum Setback
Front setback	25 feet from property line
Front setback if property lines extend to the center of a public road	55 feet from the centerline of the road
Front setback if property lines extend to the center of a private access road	55 feet from the centerline of the road
Side setback	8 feet from property line
Rear setback	12 feet from property line
Wetland	40 feet from delineation line as defined by the Army Corps of Engineers
River or perennial stream	100 feet from ordinary high-water mark
Lake or natural pond	50 feet from ordinary high-water mark
Forest Service	100 feet from property line

- B. **Height:** The maximum height for all structures shall be thirty-two feet (32') above natural grade.
- C. **Uses:** Uses in the CR-4 Zoning District are those set forth in section 13-3-16, "Chart of Allowed and Permitted Uses", of this chapter.

13-4-5: RURAL RESIDENTIAL-1 (RR-1):

- A. **District Intent:** The Rural Residential areas are established to provide spaces for the encouragement and promotion of an environment for family life by establishing one-family detached dwellings on individual lots associated with permitted uses in a low-density setting. This land-use zone is characterized by attractively landscaped or naturally rural lots, with minor lawns and shrubs and natural green spaces. Home densities for Rural Residential accommodate a density of one (1) residential dwelling unit per between one (1) and five (5) acre densities.
- B. **Lot and Site Requirements:** Except as otherwise provided in this Code, no building permit shall be issued unless the property meets the requirements below:
1. **Parcel or Lot Size and Base Density:**
 - a. The base density is one (1) units per acre or one (1) acres per unit.
 - b. The minimum lot size is one (1) acre.
 - c. Lots that are approved through a subdivision and clustered master planned development process and provided with public culinary water and sewer or health department approved septic service may be permitted minimum lot sizes down to one-third (1/3) acre.
 - d. A grandfathered parcel is exempt from the minimum size requirement.
 - e. For Master Planned Development (MPD) projects following the provisions of 13-5-10, and Appendix B of this Title, additional bonus density may be awarded through a site analysis and development agreement.
 2. **Parcel or Lot Width:**
 - a. The minimum parcel or lot width is one hundred feet (100') measured at the front setback line. In the case of unusual parcel or lot configurations such as cul-de-sacs, etc., width standards shall be determined by the City Planner, or his/her designee. Lots approved through a subdivision and master planned development process and provided with culinary water and sewer or health department approved septic service may be permitted a reduction in the minimum lot widths standard. A grandfathered parcel is exempt from the minimum lot width requirement. See 13.9.21 for panhandle or flag lot standards.
 3. **Setbacks:** Unless otherwise indicated on a recorded plat or an approved site plan, the minimum setbacks on all new construction, shall be as follows (Exception: River or perennial stream setbacks do not apply to existing small lots recorded prior to the year 2021 which would preclude or limit a previously approved type of use) Additional setbacks may be required if in a Sensitive Lands Overlay Zone (see Chapter 15):

Location	Minimum Setback
Front setback	25 feet from property line
Front setback if property lines extend to the center of a public road	55 feet from the centerline of the road
Front setback if property lines extend to the center of a private access road	55 feet from the centerline of the road
Side setback	8 feet from property line
Rear setback	12 feet from property line
Wetland	40 feet from delineation line as defined by the Army Corps of Engineers
River or perennial stream	100 feet from ordinary high-water mark
Lake or natural pond	50 feet from ordinary high-water mark
Forest Service	100 feet from property line

- B. **Height:** The maximum height for all structures shall be thirty-two feet (32') above natural grade.
- C. **Uses:** Uses in the RR-1 Zoning District are those set forth in section 13-3-16, "Chart of Allowed and Permitted Uses", of this chapter.

13-4-6: RURAL RESIDENTIAL-2 (RR-2):

- A. **District Intent:** The Rural Residential areas are established to provide spaces for the encouragement and promotion of an environment for family life by establishing one-family detached dwellings on individual lots associated with permitted uses in a low-density setting. This land-use zone is characterized by attractively landscaped or naturally rural lots, with minor lawns and shrubs and natural green spaces. Home densities for Rural Residential accommodate a density of one (1) residential dwelling unit per between one (1) and five (5) acre densities.
- B. **Lot and Site Requirements:** Except as otherwise provided in this Code, no building permit shall be issued unless the property meets the requirements below:
 - 1. **Parcel or Lot Size and Base Density:**
 - a. The base density is one (1) units per two (2) acres or two (2) acres per unit.
 - b. The minimum lot size is one (1) acres.

- c. Lots that are approved through a subdivision and clustered master planned development process and provided with public culinary water and sewer or health department approved septic service may be permitted minimum lot sizes down to one-third (1/3) acre.
 - d. A grandfathered parcel is exempt from the minimum size requirement.
 - e. For Master Planned Development (MPD) projects following the provisions of 13-5-10, and Appendix B of this Title, additional bonus density may be awarded through a site analysis and development agreement.
2. **Parcel or Lot Width:**
- a. The minimum parcel or lot width is one hundred feet (100') measured at the front setback line. In the case of unusual parcel or lot configurations such as cul-de-sacs, etc., width standards shall be determined by the City Planner, or his/her designee. Lots approved through a subdivision and master planned development process and provided with culinary water and sewer or health department approved septic service may be permitted a reduction in the minimum lot widths standard. A grandfathered parcel is exempt from the minimum lot width requirement. See 13.9.21 for panhandle or flag lot standards.
3. **Setbacks:** Unless otherwise indicated on a recorded plat or an approved site plan, the minimum setbacks on all new construction, shall be as follows (Exception: River or perennial stream setbacks do not apply to existing small lots recorded prior to the year 2021 which would preclude or limit a previously approved type of use) Additional setbacks may be required if in a Sensitive Lands Overlay Zone (see Chapter 15):

Location	Minimum Setback
Front setback	25 feet from property line
Front setback if property lines extend to the center of a public road	55 feet from the centerline of the road
Front setback if property lines extend to the center of a private access road	55 feet from the centerline of the road
Side setback	8 feet from property line
Rear setback	12 feet from property line
Wetland	40 feet from delineation line as defined by the Army Corps of Engineers
River or perennial stream	100 feet from ordinary high-water mark

Lake or natural pond	50 feet from ordinary high-water mark
Forest Service	100 feet from property line

- B. **Height:** The maximum height for all structures shall be thirty-two feet (32') above natural grade.
- C. **Uses:** Uses in the RR-2 Zoning District are those set forth in section 13-3-16, "Chart of Allowed and Permitted Uses", of this chapter.

13-4-7: AGRICULTURAL RESIDENTIAL-5 (AR-5):

- A. **District Intent:** The Agricultural Residential areas are established to provide spaces where the growing of crops and livestock raising can be encouraged and supported within the City. The character and essence of Oakley City are the Agricultural areas, and all efforts to protect these areas is encouraged. These areas are intended to protect agricultural uses from the encroachment of urban development until residential, commercial, or industrial uses in such areas become necessary and desired by the City. These areas also become the primary green space preservation lands described in more detail in the General Plan. Uses permitted in these areas, in addition to agricultural uses, must be incidental thereto and should not change the essential agricultural character of a farming environment. Conversion of the Agricultural uses to more urban type uses is accomplished only in an orderly and careful manner following the General Plan, with minimal "leap-frog" encroachments of such urban uses or developments into the surrounding agricultural areas. Those agricultural uses existing in other grandfathered zones may continue, provided that the land use remains unchanged. Home densities for Agricultural Residential accommodate a density of one (1) residential dwelling unit per between five (5) and forty (40) acre densities.
- B. **Lot and Site Requirements:** Except as otherwise provided in this Code, no building permit shall be issued unless the property meets the requirements below:
 - 1. **Parcel or Lot Size and Base Density:**
 - a. The base density is one (1) unit per five (5) acres.
 - b. The minimum lot size is one (1) acre.
 - c. Lots that are approved through a subdivision and clustered master planned development process and provided with public culinary water and sewer or health department approved septic service may be permitted minimum lot sizes down to one-third (1/3) acre.
 - d. A grandfathered parcel is exempt from the minimum size requirement.
 - e. For Master Planned Development (MPD) projects following the provisions of 13-5-10, and Appendix B of this Title, additional

bonus density may be awarded through a site analysis and development agreement.

2. **Parcel or Lot Width:**
 - a. The minimum parcel or lot width is one hundred feet (100') measured at the front setback line. In the case of unusual parcel or lot configurations such as cul-de-sacs, etc., width standards shall be determined by the City Planner, or his/her designee. Lots approved through a subdivision and master planned development process and provided with culinary water and sewer or health department approved septic service may be permitted a reduction in the minimum lot widths standard. A grandfathered parcel is exempt from the minimum lot width requirement. See 13.9.21 for panhandle or flag lot standards.
3. **Setbacks:** Unless otherwise indicated on a recorded plat or an approved site plan, the minimum setbacks on all new construction, shall be as follows (Exception: River or perennial stream setbacks do not apply to existing small lots recorded prior to the year 2021 which would preclude or limit a previously approved type of use) Additional setbacks may be required if in a Sensitive Lands Overlay Zone (see Chapter 15):

Location	Minimum Setback
Front setback	25 feet from property line
Front setback if property lines extend to the center of a public road	55 feet from the centerline of the road
Front setback if property lines extend to the center of a private access road	55 feet from the centerline of the road
Side setback	8 feet from property line
Rear setback	12 feet from property line
Wetland	40 feet from delineation line as defined by the Army Corps of Engineers
River or perennial stream	100 feet from ordinary high-water mark
Lake or natural pond	50 feet from ordinary high-water mark
Forest Service	100 feet from property line

- B. **Height:** The maximum height for all structures shall be thirty-two feet (32') above natural grade.
- C. **Uses:** Uses in the RR-2 Zoning District are those set forth in section 13-3-16, "Chart of Allowed and Permitted Uses", of this chapter.

13-4-8: AGRICULTURAL RESIDENTIAL-10 (AR-10):

- A. **District Intent:** The Agricultural Residential areas are established to provide spaces where the growing of crops and livestock raising can be encouraged and supported within the City. The character and essence of Oakley City are the Agricultural areas, and all efforts to protect these areas is encouraged. These areas are intended to protect agricultural uses from the encroachment of urban development until residential, commercial, or industrial uses in such areas become necessary and desired by the City. These areas also become the primary green space preservation lands described in more detail in the General Plan. Uses permitted in these areas, in addition to agricultural uses, must be incidental thereto and should not change the essential agricultural character of a farming environment. Conversion of the Agricultural uses to more urban type uses is accomplished only in an orderly and careful manner following the General Plan, with minimal “leap-frog” encroachments of such urban uses or developments into the surrounding agricultural areas. Those agricultural uses existing in other grandfathered zones may continue, provided that the land use remains unchanged. Home densities for Agricultural Residential accommodate a density of one (1) residential dwelling unit per between five (5) and forty (40) acre densities.
- B. **Lot and Site Requirements:** Except as otherwise provided in this Code, no building permit shall be issued unless the property meets the requirements below:
1. **Parcel or Lot Size and Base Density:**
 - a. The base density is one (1) unit per ten (10) acres.
 - b. The minimum lot size is one (1) acre.
 - c. Lots that are approved through a subdivision and clustered master planned development process and provided with public culinary water and sewer or health department approved septic service may be permitted minimum lot sizes down to one-third (1/3) acre.
 - d. A grandfathered parcel is exempt from the minimum size requirement.
 - e. For Master Planned Development (MPD) projects following the provisions of 13-5-10, and Appendix B of this Title, additional bonus density may be awarded through a site analysis and development agreement.
 2. **Parcel or Lot Width:**
 - a. The minimum parcel or lot width is one hundred feet (100') measured at the front setback line. In the case of unusual parcel or lot configurations such as cul-de-sacs, etc., width standards shall be determined by the City Planner, or his/her designee. Lots approved through a subdivision and master planned development process and provided with culinary water and sewer or health department approved septic service may be permitted a reduction

in the minimum lot widths standard. A grandfathered parcel is exempt from the minimum lot width requirement. See 13.9.21 for panhandle or flag lot standards.

3. **Setbacks:** Unless otherwise indicated on a recorded plat or an approved site plan, the minimum setbacks on all new construction, shall be as follows (Exception: River or perennial stream setbacks do not apply to existing small lots recorded prior to the year 2021 which would preclude or limit a previously approved type of use) Additional setbacks may be required if in a Sensitive Lands Overlay Zone (see Chapter 15):

Location	Minimum Setback
Front setback	25 feet from property line
Front setback if property lines extend to the center of a public road	55 feet from the centerline of the road
Front setback if property lines extend to the center of a private access road	55 feet from the centerline of the road
Side setback	8 feet from property line
Rear setback	12 feet from property line
Wetland	40 feet from delineation line as defined by the Army Corps of Engineers
River or perennial stream	100 feet from ordinary high-water mark
Lake or natural pond	50 feet from ordinary high-water mark
Forest Service	100 feet from property line

- B. **Height:** The maximum height for all structures shall be thirty-two feet (32') above natural grade.
- C. **Uses:** Uses in the RR-2 Zoning District are those set forth in section 13-3-16, "Chart of Allowed and Permitted Uses", of this chapter.

13-4-9: AGRICULTURAL RESIDENTIAL-20 (AR-20):

- A. **District Intent:** The Agricultural Residential areas are established to provide spaces where the growing of crops and livestock raising can be encouraged and supported within the City. The character and essence of Oakley City are the Agricultural areas, and all efforts to protect these areas is encouraged. These areas are intended to protect agricultural uses from the encroachment of urban development until residential, commercial, or industrial uses in such areas become necessary and desired by the City. These areas also become the primary green space preservation lands described in more detail in the General Plan. Uses

permitted in these areas, in addition to agricultural uses, must be incidental thereto and should not change the essential agricultural character of a farming environment. Conversion of the Agricultural uses to more urban type uses is accomplished only in an orderly and careful manner following the General Plan, with minimal “leap-frog” encroachments of such urban uses or developments into the surrounding agricultural areas. Those agricultural uses existing in other grandfathered zones may continue, provided that the land use remains unchanged. Home densities for Agricultural Residential accommodate a density of one (1) residential dwelling unit per between five (5) and forty (40) acre densities.

- B. **Lot and Site Requirements:** Except as otherwise provided in this Code, no building permit shall be issued unless the property meets the requirements below:
1. **Parcel or Lot Size and Base Density:**
 - a. The base density is one (1) unit per ten (20) acres.
 - b. The minimum lot size is one (1) acre.
 - c. Lots that are approved through a subdivision and clustered master planned development process and provided with public culinary water and sewer or health department approved septic service may be permitted minimum lot sizes down to one-third (1/3) acre.
 - d. A grandfathered parcel is exempt from the minimum size requirement.
 - e. For Master Planned Development (MPD) projects following the provisions of 13-5-10, and Appendix B of this Title, additional bonus density may be awarded through a site analysis and development agreement.
 2. **Parcel or Lot Width:**
 - a. The minimum parcel or lot width is one hundred feet (100') measured at the front setback line. In the case of unusual parcel or lot configurations such as cul-de-sacs, etc., width standards shall be determined by the City Planner, or his/her designee. Lots approved through a subdivision and master planned development process and provided with culinary water and sewer or health department approved septic service may be permitted a reduction in the minimum lot widths standard. A grandfathered parcel is exempt from the minimum lot width requirement. See 13.9.21 for panhandle or flag lot standards.
 3. **Setbacks:** Unless otherwise indicated on a recorded plat or an approved site plan, the minimum setbacks on all new construction, shall be as follows (Exception: River or perennial stream setbacks do not apply to existing small lots recorded prior to the year 2021 which would preclude or limit a previously approved type of use) Additional setbacks may be required if in a Sensitive Lands Overlay Zone (see Chapter 15):

Location	Minimum Setback
Front setback	25 feet from property line
Front setback if property lines extend to the center of a public road	55 feet from the centerline of the road
Front setback if property lines extend to the center of a private access road	55 feet from the centerline of the road
Side setback	8 feet from property line
Rear setback	12 feet from property line
Wetland	40 feet from delineation line as defined by the Army Corps of Engineers
River or perennial stream	100 feet from ordinary high-water mark
Lake or natural pond	50 feet from ordinary high-water mark
Forest Service	100 feet from property line

- B. **Height:** The maximum height for all structures shall be thirty-two feet (32') above natural grade.
- C. **Uses:** Uses in the RR-2 Zoning District are those set forth in section 13-3-16, "Chart of Allowed and Permitted Uses", of this chapter.

13-4-10: AGRICULTURAL RESIDENTIAL-40 (AR-40):

- A. **District Intent:** The Agricultural Residential areas are established to provide spaces where the growing of crops and livestock raising can be encouraged and supported within the City. The character and essence of Oakley City are the Agricultural areas, and all efforts to protect these areas is encouraged. These areas are intended to protect agricultural uses from the encroachment of urban development until residential, commercial, or industrial uses in such areas become necessary and desired by the City. These areas also become the primary green space preservation lands described in more detail in the General Plan. Uses permitted in these areas, in addition to agricultural uses, must be incidental thereto and should not change the essential agricultural character of a farming environment. Conversion of the Agricultural uses to more urban type uses is accomplished only in an orderly and careful manner following the General Plan, with minimal "leap-frog" encroachments of such urban uses or developments into the surrounding agricultural areas. Those agricultural uses existing in other grandfathered zones may continue, provided that the land use remains unchanged. Home densities for Agricultural Residential accommodate a density of one (1) residential dwelling unit per between five (5) and forty (40) acre densities.

B. **Lot and Site Requirements:** Except as otherwise provided in this Code, no building permit shall be issued unless the property meets the requirements below:

1. **Parcel or Lot Size and Base Density:**

- a. The base density is one (1) unit per ten (40) acres.
- b. The minimum lot size is one (1) acre.
- c. Lots that are approved through a subdivision and clustered master planned development process and provided with public culinary water and sewer or health department approved septic service may be permitted minimum lot sizes down to one-third (1/3) acre.
- d. A grandfathered parcel is exempt from the minimum size requirement.
- e. For Master Planned Development (MPD) projects following the provisions of 13-5-10, and Appendix B of this Title, additional bonus density may be awarded through a site analysis and development agreement.

2. **Parcel or Lot Width:**

- a. The minimum parcel or lot width is one hundred feet (100') measured at the front setback line. In the case of unusual parcel or lot configurations such as cul-de-sacs, etc., width standards shall be determined by the City Planner, or his/her designee. Lots approved through a subdivision and master planned development process and provided with culinary water and sewer or health department approved septic service may be permitted a reduction in the minimum lot widths standard. A grandfathered parcel is exempt from the minimum lot width requirement. See 13.9.21 for panhandle or flag lot standards.

3. **Setbacks:** Unless otherwise indicated on a recorded plat or an approved site plan, the minimum setbacks on all new construction, shall be as follows (Exception: River or perennial stream setbacks do not apply to existing small lots recorded prior to the year 2021 which would preclude or limit a previously approved type of use) Additional setbacks may be required if in a Sensitive Lands Overlay Zone (see Chapter 15):

Location	Minimum Setback
Front setback	25 feet from property line
Front setback if property lines extend to the center of a public road	55 feet from the centerline of the road
Front setback if property lines extend to the center of a private access road	55 feet from the centerline of the road
Side setback	8 feet from property line
Rear setback	12 feet from property line

Wetland	40 feet from delineation line as defined by the Army Corps of Engineers
River or perennial stream	100 feet from ordinary high-water mark
Lake or natural pond	50 feet from ordinary high-water mark
Forest Service	100 feet from property line

- B. **Height:** The maximum height for all structures shall be thirty-two feet (32') above natural grade.
- C. **Uses:** Uses in the RR-2 Zoning District are those set forth in section 13-3-16, "Chart of Allowed and Permitted Uses", of this chapter.

13-4-11: AGRICULTURAL FORESTRY-100 (AF-100):

- A. **District Intent:** This land use is similar to the Agricultural Residential (AR). Still, it is imposed on lands controlled by the U.S. Forest Service or land in mountainous or remote and rugged terrain that would not be efficiently serviced by any large public infrastructure. This use has an extremely low residential density (100 or more acres per residence). It is always considered part of any green space or sensitive lands overlay type of zone or regulations.
- B. **Lot and Site Requirements:** Except as otherwise provided in this Code, no building permit shall be issued unless the property meets the requirements below:
 - 1. **Parcel or Lot Size and Base Density:**
 - a. The base density is one (1) unit per ten (100) acres.
 - b. The minimum lot size is one (1) acre.
 - c. Lots that are approved through a subdivision and clustered master planned development process and provided with public culinary water and sewer or health department approved septic service may be permitted minimum lot sizes down to one-third (1/3) acre.
 - d. A grandfathered parcel is exempt from the minimum size requirement.
 - 2. **Parcel or Lot Width:**
 - a. The minimum parcel or lot width is one hundred feet (100') measured at the front setback line. In the case of unusual parcel or lot configurations such as cul-de-sacs, etc., width standards shall be determined by the City Planner, or his/her designee. Lots approved through a subdivision and master planned development process and provided with culinary water and sewer or health department approved septic service may be permitted a reduction in the minimum lot widths standard. A grandfathered parcel is

exempt from the minimum lot width requirement. See 13.9.21 for panhandle or flag lot standards.

3. **Setbacks:** Unless otherwise indicated on a recorded plat or an approved site plan, the minimum setbacks on all new construction, shall be as follows (Exception: River or perennial stream setbacks do not apply to existing small lots recorded prior to the year 2021 which would preclude or limit a previously approved type of use) Additional setbacks may be required if in a Sensitive Lands Overlay Zone (see Chapter 15):

Location	Minimum Setback
Front setback	25 feet from property line
Front setback if property lines extend to the center of a public road	55 feet from the centerline of the road
Front setback if property lines extend to the center of a private access road	55 feet from the centerline of the road
Side setback	8 feet from property line
Rear setback	12 feet from property line
Wetland	40 feet from delineation line as defined by the Army Corps of Engineers
River or perennial stream	100 feet from ordinary high-water mark
Lake or natural pond	50 feet from ordinary high-water mark
Forest Service	100 feet from property line

- B. **Height:** The maximum height for all structures shall be thirty-two feet (32') above natural grade.
- C. **Uses:** Uses in the RR-2 Zoning District are those set forth in section 13-3-16, "Chart of Allowed and Permitted Uses", of this chapter.

13-4-12: COMMERCIAL (C):

- A. **District Intent:** This land use would be for commercial endeavors with light to moderate public traffic. The main area suitable for this use is Oakley's inner commercial block or in certain areas along the State highway, as designated on the Land Use Map. This use is to be architecturally sound and compatible with the community goals and visions associated with the General Plan. Some mixed uses of this zone may be allowed (integrated with residential) in certain areas along the highway or City center as in a Village type of development, providing that residential uses are not adversely interfered with or disturbed by any of the uses proposed. This zone district would provide the general public with access to a

limited range of neighborhood commercial and service related uses necessary to support the needs of residents in the surrounding area. This zone district further allows existing commercial uses to be expanded and new commercial uses to be established.

- B. **Existing Legal Nonconforming Commercial Uses:** Existing legal nonconforming commercial uses not located within a Commercial Zone District may continue and may be enlarged and/or expanded in accordance with section 13-9-2 of this Title and the commercial use criteria listed in subsection C of this section.

- C. **Commercial Zone and Use Criteria:** New commercial uses shall not be established nor shall existing commercial uses be expanded within the Commercial Zone unless the use complies with all of the following criteria:
 - 1. The commercial use provides goods and/or services and employment opportunities to the residents of Oakley City.
 - 2. There is sufficient off-street parking at a minimum ratio of three (3) spaces per one thousand (1,000) square feet of floor area with adequate circulation and convenient access to the property without hazards and conflicts in residential neighborhoods.
 - 3. Public services (sewer, water, electric, phone, etc.) are readily available to the property and can be provided at adequate levels to serve the demands of the commercial use without negatively impacting the level of service to adjoining uses or existing businesses as determined through an infrastructure analysis.
 - 4. The property does not contain critical areas that are negatively impacted by the commercial use.
 - 5. The commercial use is compatible and consistent with or supports other nearby uses and/or property conditions.
 - 6. The commercial use will not substantially alter the essential character of the surrounding area.
 - 7. The commercial use will not substantially increase the danger of fire or otherwise endanger public safety, or substantially diminish or impair the enjoyment of surrounding properties.
 - 8. A site plan, building architectural drawings and operational management plan will be required as part of any conditional use, low impact permit, rezoning or expansion of a commercial use to fully address potential impacts to neighboring uses or the community at large.

- D. **Floor Area and Lot Coverage:** Floor area and lot coverage requirements in the Commercial Zones shall be dictated by off street parking, adequate circulation and other site design requirements and development standards. The maximum floor area or lot coverage shall not exceed sixty percent (60%) of the lot.

- E. **Lot Width:** There shall be no requirement for lot width, provided all off-street parking and circulation requirements can be satisfied.

- F. **Setback Requirements:** Minimum front yard setbacks shall be twenty feet (20') from any roadway right-of-way. Minimum side yard setbacks shall be eight feet (8') from the side property line. Minimum rear yard setback shall be twenty-four feet (24') from the rear property line to provide adequate alleyways for deliveries. Variances to the required setbacks to facilitate the use of existing buildings may be considered by the Appeal Authority.
 - 1. **Wetlands and Streams:** The minimum setback from wetlands shall be forty feet (40'). The minimum setback from a river, perennial stream, pond, or lake shall be one hundred feet (100') from the ordinary high-water mark.
- G. **Parking:** Parking shall generally be located at the side or rear of commercial buildings with only limited parking allowed at the front of the building between the roadway and the building.
- H. **Building Height:** Maximum building height shall be thirty-two feet (32') unless additional building height is required for the commercial use and is approved by the Fire District and is determined by the Planning Commission to be compatible with adjacent buildings and uses. In no case shall the building height exceed fifty feet (50').
- I. **Special Requirements:** Special landscape screening and other buffer requirements, to the extent practical and reasonable, may be required to minimize the impact on adjacent uses. Special screening and buffer requirements shall be determined through the planning permit review processes.

13-4-13: LIGHT MANUFACTURING AND INDUSTRIAL (LM):

- A. **District Intent:** This land use is similar to the Commercial/Retail use described above. Still, it differs in that wholesale and or light manufacturing of products are allowed with less public accesses associated with the use. The types of businesses and plants in this use are relatively small and should be as environmentally clean as possible. A small park setting is most desirable. The plants, offices, or buildings located in this classification must be architecturally compatible with the character of the City as defined in this General Plan.
- B. **Existing Legal Nonconforming Light Manufacturing and Industrial Uses:** Existing legal nonconforming light industrial and manufacturing uses not located within this zone district may continue and may be enlarged and/or expanded in accordance with section 13-9-2 of this Title and the use criteria listed in subsection C of this section.
- C. **Light Manufacturing and Industrial Zone Land Use Criteria:** New light manufacturing and industrial uses shall not be established nor shall existing light manufacturing and industrial uses be expanded within the Light Manufacturing and Industrial Zone unless the use complies with all of the following criteria:
 - 1. There is adequate off-street parking, circulation areas, and safe convenient access to the property.

2. Public services (sewer, water, electric, phone, etc.) are readily available to the property and/or can be provided at adequate levels to serve the demands of the use without negatively impacting the level of service to adjoining uses or existing businesses as determined through an infrastructure analysis.
 3. The property does not contain critical areas that are negatively impacted by the use.
 4. The use will not substantially alter the essential character of the surrounding area.
 5. The use will not substantially increase the danger of fire or otherwise substantially endanger public safety.
 6. A site plan, building architectural drawings, and plan of operations will be required as part of any conditional use, low impact permit, rezoning or expansion of a light manufacturing and industrial use to fully address potential impacts to neighboring uses or the community at large.
- D. **Lot Width:** There shall be no requirement for lot width, provided all material handling, off street parking and circulation requirements can be satisfied.
- E. **Building Height:** Maximum building height shall be thirty-two feet (32') unless additional building height is required for the subject use and is approved by the Fire District and is determined by the Planning Commission to be compatible with adjacent buildings and uses. In no case shall the building height exceed fifty feet (50').
- F. **Setback Requirements:** Minimum setbacks for light industrial uses shall be determined through the low impact or conditional use approval process. The minimum setback shall be at least fifty feet (50') from any City designated roadway right-of-way or, in the absence of a designated right-of-way, at least eighty feet (80') from the centerline of the City designated roadway. Front setbacks from a private driveway or access road shall be thirty feet (30') from the front property line. In cases where the property lines extend to the center of a private driveway or access road, the minimum setback shall be fifty-five feet (55') from the centerline of the driveway or road. The minimum side and rear setbacks for all structures shall be twelve feet (12'). For structures taller than thirty-two feet (32') and/or parcels larger than five (5) acres, the setbacks shall be at least one hundred feet (100') from any public road right-of-way or, in the absence of a designated right-of-way, at least one hundred twenty feet (120') from the centerline of the public roadway, and the minimum side and rear setbacks shall be fifty feet (50'). Additional setbacks may be required if in a Sensitive Lands Overlay Zone (see Chapter 15).
1. **Wetlands and Streams:** The minimum setback from wetlands shall be forty feet (40'). The minimum setback from a river, perennial stream, pond, or lake shall be one hundred feet (100') from the ordinary high-water mark.
- G. **Special Requirements:** Special landscape screening and other buffer requirements, to the extent practical and reasonable, may be required to

minimize the impact on adjacent uses. Special screening and buffer requirements shall be determined through the planning permit review processes.

13-4-14: VILLAGE MIXED-USE (VM):

A. **District Intent:** A Village Mixed-use area is designed to accommodate future development near the Oakley City core. This area's growth may be a compatible mix of commercial, lodging, and other high-density residential uses. This zone may also be developed as a Transfer of Development Rights (TDR) receiving area to move densities from sensitive or other outlying areas into this core high-density zone. All development, including various mixed-use densities and types within the VM zone, is designed, approved, and phased as per the Master Planned Development (MPD) regulations specified in this Title. A well written master plan for the entire district is necessary before development is approved in this zone. The Village Mixed-Use Zone is intended to incentivize cooperation and community design flexibility. The aim of the Village Mixed-Use Zone is to create a comprehensive, community-specific land use and design strategy to address community needs, including but not limited to:

1. Construction of cost-efficient public and/or private infrastructure (streets, water and wastewater).
2. Provide a wide range of housing opportunities, including affordable housing options.
3. Provide spaces for small and local start-up businesses and live-work space.
4. Provide local employment opportunities.
5. Allow safe walkable access to:
 - a. Local shopping,
 - b. Cafes and restaurants,
 - c. Offices,
 - d. Service commercial and other light uses,
 - e. Arts and similar shops,
 - f. Civic and institutional uses, and
 - g. Future regional public transportation.

All setbacks, building heights, lot sizes and densities, architectural considerations, are varied and will be determined by City Planning and the Planning Commission in the project scoping and Master Planned Development processes.

13-4-15: PUBLIC FACILITIES (PF):

A. **District Intent:** The Public Facilities areas are established to provide spaces for the location and establishment of maintained facilities for public or quasi-public use. This land use should be created in the regions that are suitable and compatible

with neighboring zones, possibly providing “buffer” areas where appropriate. Uses similar to the following may be permitted in these areas:

1. Automobile parking
2. Parks and Arenas
3. Cemeteries
4. Executive, legislative & judicial functions
5. Open and Green Space Protective functions
6. Postal services
7. Schools and Educational Services
8. Miscellaneous service organization
9. Cultural activities and nature exhibitions
10. City and other public properties
11. Public assembly

All setbacks, building heights, lot sizes and densities, architectural considerations, are varied and will be determined as each individual project is reviewed and approved.

13-4-16: SENSITIVE LANDS OVERLAY ZONE (SLO):

Sensitive and Hazardous Lands. These areas are dealt with through the creation of various overlays, as shown in the accompanying maps. These sensitive areas impose additional requirements on the other land uses listed above. These sensitive areas are assessed in new development applications by thorough study and analysis by the developer and City, with the use of suitability and mitigation measures, if necessary, determined. These requirements are in addition to the conditions imposed on any land use or zone regulations that may exist beneath the overlays. Other smaller areas of sensitive lands or hazardous lands may be discovered as new developments are processed, or regions are investigated. These locations will also become subject to Green Space and C.E.D.A.R. standards' regulations as specified in section 11 of the General Plan.

Special regulations governing the development of properties within in the Sensitive Lands Overlay (SLO) zone or properties believed to be subject to these constraints are detailed in Chapter 15 of this Title.

The Land Suitability and Critical Lands Maps are to become a series of maps or compilation of the overlaid maps brought into one (1) general Sensitive Lands Overlay Zone map that defines lands that may not be suitable for development or where use restrictions should apply. The compilation represents all areas from the individual maps. These areas become the significant areas of the Sensitive Lands Overlay Zone in this Title and uses in these areas become subject to additional study and analysis as determined by the City Planner, City Engineer, Planning Commission, and City Council. Data for these maps comes from various State, Federal, and County Studies updated as new data is

made available. These maps do not define ALL areas subject to the Sensitive Lands reviews, only the obvious. Other small sites may be deemed appropriate for applying the review on a closer examination and a development case by case basis. The maps and other records may delineate the following general areas as sensitive (Map letter designations correspond to maps in the City General Plan):

- A. High value or Critical wildlife habitats (State Division of Wildlife Resources)
- B. Wetlands, riparian, flood plains, and water issues (Map D, E, F, and J)
- C. Known Geologic Hazards, such as karst, landslides (Map H)
- D. Unsuitable or Critical building soils (Map I)
- E. Steep slopes over thirty (30) percent (Map G)
- F. Fire Hazardous from slopes, fuels, and vegetation (Map K)
- G. Hillsides and ridge tops (assessed per project based on topography studies)
- H. Public Lands, parks, and open spaces (Map L)

13-4-17: ZONE DISTRICT MAP:

- A. **Incorporation of Map:** The location and boundaries of established zone districts are set forth on the Zone District Map of Oakley City. The map, with all notations, references and other information shown thereon, is incorporated herein and is considered part of this Title.
- B. **Amendments:** If, in accordance with the provisions of this Title, changes are made in district boundaries or other matters portrayed on the Zone District Map, such changes shall be entered on the map promptly after amendment by the City Planner or designated planning staff member.
- C. **Official Copy on File:** Regardless of the existence of purported copies of the Zone District Map, the official Zone District Map shall be located in the Office of the City Planning Department and shall be the final authority as to the current zoning status of land, buildings, and other structures in Oakley City.
- D. **Uncertainty of Boundary:** When, due to scale, the Zone District Map lacks detail, is illegible, or where there is uncertainty, contradiction, or conflict as to the intended location of any zone district boundary as shown thereon, the City Planner or designated planning staff member shall make an interpretation of the map upon request of any person, and any person aggrieved by any such interpretation may appeal the same to the Planning Commission.

13-4-18: ALLOWED, CONDITIONAL, LOW IMPACT, AND TEMPORARY USES:

- A. **Allowed:** To facilitate public understanding of this Code and for better administration, convenience, and use thereof, those uses designated as "allowed"

are permitted as a matter of right without special authorization, provided the use complies with all requirements of the zone district as described in this chapter. The establishment of any allowed use is subject only to obtaining a building permit, business license, and/or road encroachment permit.

- B. **Conditional:** Conditional uses are those uses which are permitted in a particular zone district upon showing that such use at a specific site within that zone district will comply with all conditions and standards specified in this Code for ensuring compatibility with surrounding land uses. Conditional uses that are not capable of meeting the development evaluation standards described in chapter 2 and other areas of this Title at a specific location shall not be approved at that location. However, the conditional use may be acceptable at another location where it can comply with the development evaluation standards.
- C. **Low Impact:** Low impact uses are uses, projects and activities that are considered to have little or no impact on the public health, safety and general welfare. Low impact uses determined to be in compliance with the development evaluation standards and general regulation of the Code may be approved administratively by the City Planner or designated planning staff member.
- D. **Temporary:** A temporary use is a use that can be established for a limited duration with the intent to discontinue such use upon the expiration of the time period. Any use not listed as an allowed use or a conditional use within a zone district may be considered as a temporary use pursuant to and in accordance with the provisions of this Title.

13-4-19: CHART OF ALLOWED AND PERMITTED USES:

The following chart titled "Chart of Allowed and Permitted Uses" defines allowed, conditional, low impact, and temporary uses, as well as prohibited or not allowed designations for the various zone districts. Zone Districts are represented by column. Uses are designated as follows:

- A = Allowed**
- C = Conditional**
- L = Low Impact Permit**
- T = Temporary**
- [Blank] = Prohibited**

CHART OF ALLOWED AND PERMITTED USES

Permitted Uses	CR -2	CR -3	CR -4	RR -1	RR -2	AR -5	AR -10	AR -20	AR -40	AF	C	LM	VM	PF	Additional Reference
Accessory (non-dwelling) buildings and uses to the principal use, exceeding 2,000 square feet				C	C	C	C	C	C	C	C	C	C	C	
Accessory (non-dwelling) buildings and uses to the principal use, not to exceed 2,000 square feet				A	A	A	A	A	A	A	A	A	A	A	
Accessory dwelling unit (Detached) not to exceed 1,000 square feet				L	L	L	L	L	L	L	L	L	L	L	See Section 13-9-5 of this Title
Accessory dwelling unit (Attached as an addition) not to exceed 1,000 square feet	C	C	C	L	L	L	L	L	L	L	L	L	L	L	See Section 13-9-5 of this Title
Accessory dwelling unit (In-home) not to exceed 1,000 square feet	A	A	A	A	A	A	A	A	A	A	A	A	A	A	See Section 13-9-5 of this Title
Adaptive reuse of a historically significant structure	C	C	C	C	C	C	C	C	C	C	C	C	C	C	Section 13-9-21 of this Title
Agricultural employee dwelling unit				C	C	C	C	C	C	C					Section 13-9-5 of this Title
Agricultural employee facility for the purpose of providing shelter for more than 1 family				C	C	C	C	C	C	C					
Agriculture buildings and uses customarily associated with traditional "agriculture" operations as defined in appendix A of this Title				A	A	A	A	A	A	A	A	A		A	See Appendix A
Airport, landing strips, helipads (Private or commercial)									C		C	C			
Auto impoundment yard and towing services											C	C			
Auto repair, service and detailing											C	C			

Permitted Uses	CR -2	CR -3	CR -4	RR -1	RR -2	AR -5	AR -10	AR -20	AR -40	AF	C	LM	VM	PF	Additional Reference
Auto wrecking yard												C			
Automotive sales											C	C			
Banks and financial services											A	C			
Bars, taverns, private clubs											C	C			
Bed and breakfast inn	C	C	C	C	C	C	C	C	C	C	A		C		
Butcher, retail				C	C	C	C	C	C		A	A	C		
Campgrounds and RV parks				C	C	C	C	C	C	C	C			C	See section 13-9-20
Car wash											C	C			
Cemetery	C	C	C	C	C	C	C	C	C	C				A	
Childcare, commercial	C	C	C	C	C	C	C	C	C	C	C	C	C		
Childcare, in home (4 children or less)	A	A	A	A	A	A	A	A	A	A	A				
Childcare, family (with 5 - 8 children)	C	C	C	L	L	L	L	L	L	L	A				
Childcare, family (with 9 - 16 children)	C	C	C	L	L	L	L	L	L	L	A				
Contractor's office				C	C	C	C	C	C	C	C	C	C		
Contractor's yard and material storage areas				C	C	C	C	C	C	C	C	C			Screening specified in CUP. See 13-9-22
Contractors storage of one piece of light equipment.	L	L	L	L	L	L	L	L	L	L	L				See 13-9-22
Contractors storage of 2 or more trucks, heavy and light equipment, including trailers				C	C	C	C	C	C	C	C	L			See 13-9-22
Distillery/microbrewery						C	C	C	C	C	C	C	C		
Dwelling unit, multi-family	C	C	C	C	C						C	C	A		
Dwelling unit, one-family	A	A	A	A	A	A	A	A	A	A	L	L	A	L	
Dwelling unit, single-family attached	C			C	C	C	C	C	C	C	C	C	C		
Equipment rental, heavy											C	A			
Equipment rental, light											A	A			
Event center				C	C	C	C	C	C	C	C	C	C	C	
Food processing, commercial				C	C	C	C	C	C	C	A	A	C		

Permitted Uses	CR -2	CR -3	CR -4	RR -1	RR -2	AR -5	AR -10	AR -20	AR -40	AF	C	LM	VM	PF	Additional Reference
Funeral services						C	C	C	C		A	A			
Gas and fuel, storage and wholesale											C	C			
Gasoline service station with or without convenience store											C	L			
Guest ranches or lodge intended to attract visitors/patrons on a daily basis or an extended stay				C	C	C	C	C	C	C	C	C			
Hazardous liquids or materials transmission pipelines				C	C	C	C	C	C	C	C	C		C	Section 13-9-19 of this Title
Home occupation	A	A	A	A	A	A	A	A	A	A	A	A	A	A	Section 13-9-3 of this Title
Hospitals											C	C			
Hotel, motel											C	C	C		
Houses of worship including churches and other religious institutions				C	C	C	C	C	C	C	C	C	C		
Indoor entertainment such as bowling alleys, skating rinks, movie theater, performing arts center											A	A	C		
Industrial uses and operations including storage and processing											C	A		C	
Institutional uses including fire stations, private schools and public or quasi-public buildings				C	C	C	C	C	C	C	C	C	C	C	
Kennels and Animal boarding and care					C	C	C	C	C	C	C	C			See 13-9-26
Logging camp							C	L	L	L					
Manufacturing, custom				C	C	C	C	C	C	C	L	L			
Manufacturing, heavy												C			
Manufacturing, light				C	C	C	C	C	C	C	A	A			
Mobile home park															
Mobile home with foundation	A	A	A	A	A	A	A	A	A	A	L	L			See def. of prefabricated home

Permitted Uses	CR -2	CR -3	CR -4	RR -1	RR -2	AR -5	AR -10	AR -20	AR -40	AF	C	LM	VM	PF	Additional Reference
Mobile home without foundation that is occupied for more than 180 days				C	C	C	C	C	C	C	C	C			
Municipal landfill												C		C	
Nightly home or room rentals				L	L	L	L	L	L		L	L	L		See section 13-9-20
Nursery/greenhouse				C	C	C	C	C	C	C	C	C	C		
Oil wells, natural gas wells and steam wells							C	C	C	C	C	C		C	See Subsection 13-5-7
Open space, recreational (motorized)						C	C	C	C	C				C	
Open space, recreational (nonmotorized)				L	L	L	L	L	L	L				A	
Petting zoo or public farm					C	C	C	C	C	C	C	C			
Petroleum refineries												C			
Professional offices				C	C	C	C	C	C	C	A	A	A		
Railroad industrial uses including shipping and distribution											C	C			
Recreation and athletic facilities				C	C	C	C	C	C	C	A	A	C		
Recreational equipment rental	C	C	C	C	C	C	C	C	C	C	A	A			
Recycling facilities						C	C	C	C	C	A	A		C	
Rehearsal or teaching studio for creative, performing and/or martial arts with no public performances				L	L	L	L	L	L	L	A	A	C		
Residential care facilities				C	C	C	C	C	C	C	C	C	C		Section 13-9-18 and appendix A of this Title
Residential treatment centers (including boarding schools)				C	C	C	C	C	C		C	C		C	
Restaurant					C	C	C	C	C	C	A	A	A		
Restaurant with drive-through											L	L	L		
Retail commercial establishments											L	L	L		

Permitted Uses	CR -2	CR -3	CR -4	RR -1	RR -2	AR -5	AR -10	AR -20	AR -40	AF	C	LM	VM	PF	Additional Reference
Riding Arenas, (private, non-profit, and commercial)				C	C	C	C	C	C		C	C		A	Size and style must suitably fit the lot
Rock quarries, gravel pits, and any associated surface mining uses, including all soil processing facilities									C	C	C	C			
Sawmill									C	C	C	C			
Schools, public and private				C	C	C	C	C	C		C	C	C	A	
Seasonal plant and agricultural product sales	A	A	A	A	A	A	A	A	A	A	A	A	A		
Sexually oriented businesses															Appendix C of this Title
Shooting ranges, indoor											C	L			
Shooting ranges, outdoor									C	C	C	C		C	
Solar electric panels on individual facilities	L	L	L	L	L	L	L	L	L	L	L	L	L	L	Requires building permit
Solar Farms (Commercial-large scale)				C	C	C	C	C	C	C	C	C			
Stables, commercial				C	C	C	C	C	C		C	C			
Storage or shipping container (metal) buildings for any use.				L	L	L	L	L	L	L			C		See 13-9-24
Telecommunications facilities - collocation	C	C	C	C	C	C	L	L	L	L	A	A	C	C	Section 13-9-7 of this Title
Telecommunications facilities - stealth	C	C	C	C	C	C	A	A	A	A	A	A	L	L	Section 13-9-7 of this Title
Underground transmission lines 6 inches or less in diameter such as natural gas, water, sewer, telephone and power	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Underground transmission lines exceeding 6 inches in diameter that are not	L	L	L	L	L	L	L	L	L	L	L	L	L	L	See definition in section 13-9-17

considered hazardous liquids or materials transmission pipelines.																
Permitted Uses	CR -2	CR -3	CR -4	RR -1	RR -2	AR -5	AR -10	AR -20	AR -40	AF	C	LM	VM	PF	Additional Reference	
Underground transmission lines exceeding 12 inches diameter (including but not limited to gas, oil and water)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	City owned facilities are allowed in all zones	
Utility structures and related facilities	C	C	C	C	C	C	C	C	C	C	L	L	C	L	Section 13-9-6 of this Title	
Utility towers and associated electrical transmission and distribution lines 45 feet in height or less	C	C	C	C	C	C	C	C	C	C	C	L	C	L		
Utility towers and associated electrical transmission and distribution lines greater than 45 feet in height	C	C	C	C	C	C	C	C	C	C	C	C	C	C		
Utility electrical power sub-stations	C	C	C	C	C	C	C	C	C	C	C	C	C	C		
Veterinarian clinic				C	C	C	C	C	C	C	L	L				
Warehousing and commercial storage											C	C				
Water and wastewater treatment plant				C	C	C	C	C	C	C	C	C	C	A		
Welding shop, commercial								C	C		A	A				
Wind power generation facilities 45 feet in height and less	C	C	C	A	A	A	A	A	A	A	L	L	C	L		
Wind power generation facilities greater than 45 feet in height ¹				C	C	C	C	C	C	C	C	C		C		

Note:

1. Wind power generation facilities greater than 45 feet in height are exempt from the ridgeline prohibition provisions of this Title provided it meets all of the conditional uses permit requirements in section 13-5-7J of this Title.

CHAPTER 5 DEVELOPMENT REVIEW PROCESSES AND PROCEDURES

SECTION CONTENTS:

- 13-5-1: Purpose
- 13-5-2: Lot/Parcel Requirement for Development, Subdivisions and/or Uses
- 13-5-3: Permits Required
- 13-5-4: General Provisions
- 13-5-5: Subdivisions, Condominiums, Subdivision Plat Amendments, Parcel Boundary Adjustments, And Divisions of Land for Non-Development Purposes
- 13-5-6: Final Site Plans
- 13-5-7: Conditional Use Permits
- 13-5-8: Low Impact Permits
- 13-5-9: Temporary Use Permits
- 13-5-10: Master Planned Developments
- 13-5-11: Vesting of Approvals

13-5-1: PURPOSE:

The purpose of this chapter is to provide clear and predictable standards of review and processes for the administration of development, subdivisions, and uses within Oakley City.

13-5-2: LOT/PARCEL REQUIREMENT FOR DEVELOPMENT, SUBDIVISIONS AND/OR USES:

- A. **A Conforming Parcel:** A conforming parcel is defined as one of the following:
 - 1. A lot within a recorded subdivision which was created through a lawful Oakley City Land Management and Development Code land division process and which is intended for development purposes;
 - 2. A parcel which was created through a lawful Oakley City Land Management and Development Code land division process after Oakley City adopted its first zoning ordinance in 1980, and which conforms to the minimum size requirements of the applicable zone at the time of a development application;
 - 3. A parcel created under Utah Code Annotated section 10-9a-605(4), as amended;
 - 4. A grandfathered parcel; or
 - 5. A parcel created by a bona fide division or partition of land for agricultural activities.

- B. **A Non-Conforming Parcel:** A non-conforming parcel is a parcel not meeting the definition of a conforming parcel. A decision by the City Planner determining that a parcel is a non-conforming parcel may be appealed to the City Council within ten (10) calendar days from the date of the decision in accordance with section 13-1-16 of this Title.
- C. **Eligibility for Development:**
1. For development purposes and in order to apply for development, a parcel must be a conforming parcel.
 2. A non-conforming parcel is eligible for development of a single-family dwelling, subdivision, or other development action, permit, or use identified in section 13-4-19 of this Title, by an action of the City through one of the following development processes, as defined and outlined in this Title, provided all criteria can be met.
 - a. **Parcel Boundary Adjustment:** Parcel boundary adjustment, including the combination of a non-conforming parcel with a conforming parcel.
 - b. **Subdivision:** In cases where property descriptions were created in a manner not consistent with this Title, a retroactive subdivision may be considered. The application shall include all associated properties from which the non-conforming parcel was derived.
 - c. **Subdivision Plat Amendment:** Subdivision plat amendment, including the expansion of a subdivision to include land outside of a subdivision, regardless of whether said land is a conforming parcel or a non-conforming parcel.
 - d. **New Subdivision:** A new subdivision or Master Planned Development (MPD) in complete conformance with this Title, using the entitled lot count of the non-conforming parcels in a new subdivision using a more preferred layout, planning, and possible bonus density associated therewith.
- D. **Standards for Verification:** The following factors shall be taken into consideration in determining "conforming parcel" status, namely:
1. If a government action creates a public road that bisects a "conforming parcel", the parcels on either side of the road are considered to be separate "conforming parcels". If a government action results in the widening of a road within a "conforming parcel", the parcel shall maintain its "conforming parcel" status.
 2. If the Weber-Provo Canal divides a "conforming parcel", then the parcels on either side of the canal are considered to be separate "conforming parcels".
 3. If a property owner petitions to have only a portion of a "conforming parcel" annexed into a city, the portion of the property remaining under County jurisdiction loses its "conforming parcel" status unless the

property is subdivided in accordance with this Title prior to or concurrent with the annexation.

4. Government survey lot(s), although shown as individual lots on ownership plat maps, are not considered to be "conforming parcels" unless the lot(s) otherwise conform to the definition of "conforming parcel" and there is clear evidence that the government survey lot was owned, conveyed or patented independent of the quarter section of which it was part.
5. Section lines do not divide a parcel into two (2) or more "conforming parcels" unless the parcel(s) otherwise conform to the definition of a "conforming parcel".
6. If the description of a "conforming parcel" has changed due to an updated survey for the purpose of confirming property boundaries, and the description does not create additional, separately described parcels, the "conforming parcel" status will remain intact.
7. Multiple accessor parcel or Property Tax identification numbers are not conclusive proof of "conforming parcel".

13-5-3: PERMITS REQUIRED:

No development, subdivision, or use may be undertaken within Oakley City unless all permits applicable to the proposed development, subdivision, or use are issued in accordance with the provisions of this Title.

13-5-4: GENERAL PROVISIONS:

- A. **Initiation:** An application for development, subdivision or use activity approval shall be initiated by submitting the appropriate application to the Planning Department.
- B. **Initial Review, Recommendation, And Action:**
 1. Within thirty (30) days of receipt, the City Planner shall review the application to determine that all necessary submittal requirements and information are provided and that the land under consideration contains one or more conforming parcels. If the City Planner determines that the application does not contain the required information sufficient for compliance with this Title, the City Planner shall provide written notice to the applicant specifying the deficiencies of the application. The City Planner may elect to take no further action on the application until such time as all necessary submittal requirements are provided.
 2. An application for development, subdivision, and/or use activity shall be deemed incomplete if:
 - a. Any relevant information is not provided, including any supplemental information requested by the City Planner;
 - b. The application form is not signed by the owner;

- c. Required fees are not paid.
- 3. In the event that the applicant fails to satisfy the deficiencies in the application within thirty (30) days of notification of the same, all application materials (including application fees) shall be returned to the applicant, and the application process shall be deemed terminated with no approval.
- 4. A determination of sufficiency shall not constitute a determination of compliance with the substantive requirements of this Title, nor shall it indicate that the information submitted by the applicant is accurate or has been verified. Additional information may be required at a later date throughout the approval process.
- 5. All development permits shall be conditioned so that no final action shall be issued on the subject property until all outstanding and current Property Taxes have been paid.
- 6. The City Planner is the delegated authority to make administrative interpretations of this chapter and to provide such guidance as is necessary to applicants for development, subdivision, and/or land use activity approvals consistent with and in furtherance of this chapter.
- 7. Any person adversely affected by an administrative interpretation of this chapter may appeal such interpretation to the City Council, in accordance with the appeals procedures set forth in section 13-1-16 of this Title.

13-5-5: SUBDIVISIONS, CONDOMINIUMS, SUBDIVISION PLAT AMENDMENTS, PARCEL BOUNDARY ADJUSTMENTS, AND DIVISIONS OF LAND FOR NON-DEVELOPMENT PURPOSES:

- A. **Purpose:** The purposes of this section are to:
 - 1. Guide the future growth of Oakley City in a manner consistent with the Oakley City General Plan.
 - 2. Advance the public health, safety, and welfare of the property owners and residents who reside within Oakley City.
 - 3. Provide development opportunities for property owners and residents to live, work, and conduct business within Oakley City.
 - 4. To direct development to areas readily accessible to adequate access, water, wastewater, and other necessary public infrastructure and services.
 - 5. Encourage development that adequately mitigates any potential adverse effects on adjacent properties.
 - 6. Encourage clustered development to protect wetlands, riparian areas, steep slopes, greenspaces, ridgelines and other environmentally sensitive areas wherever practicable.
 - 7. Provide reasonable and predictable standards of review and preview processes and achieve responsible orderly development.
 - 8. Provide for the division of land for non-development purposes.

B. Subdivisions Consisting of Three or Less Lots (Minor Subdivisions):

1. **Special Provision:** When a single parcel includes multiple zones, density may be located upon the parcel in the most appropriate manner irrespective of the boundaries of the zones.
2. **Submission Requirements:** An application for a subdivision consisting of three (3) lots or less shall include the information set forth below. The City Planner may waive specific submittal requirements if it is determined that the submittal requirement(s) are not necessary to demonstrate compliance with the provisions of this chapter.
 - a. Completed subdivision application signed by the owner(s);
 - b. The payment by the applicant of the subdivision application fee;
 - c. The subdivision shall contain sufficient land area necessary to meet the density requirements of the zone;
 - d. Name and address, including telephone number, of all the owner(s), and citation of last instrument conveying title to each parcel of property involved in the proposed subdivision, giving grantor, grantee, date, and land records reference;
 - e. One (1) copy of a survey prepared by a surveyor licensed in the State of Utah including the following information:
 - (1) The name of the land surveyor;
 - (2) Approximate true north arrow;
 - (3) Legal description and location of property, including citation of any existing legal rights-of-way, public and private roads, streets, irrigation ditches, water bodies, water wells, streams/rivers, structures, and/or other physical improvements affecting the property and existing covenants on the property, if any;
 - (4) A delineation of environmentally sensitive areas, floodplains, delineated wetlands, ridgelines, and slopes exceeding thirty percent (30%);
 - f. Two (2) copies (one 11" x 17" copy and one 24" x 36" copy) of the proposed final subdivision plat and one (1) electronic copy of a scaled final subdivision plat prepared by a surveyor or civil engineer licensed in the State of Utah, including:
 - (1) The subdivision name and date of plat creation. The subdivision name may not be the same name as any existing recorded subdivision in Oakley City or in Summit County, Utah;
 - (2) The name of the land surveyor;
 - (3) Approximate true north arrow;
 - (4) The plat scale and the location and dimensions of all boundary lines of the property (expressed in feet and in decimals of a foot), the locations, dimensions, and areas of all proposed lots, rights-of-way, and easements;

- (5) Consecutively numbered or lettered lots with addresses (subject to final review and approval by the City);
- (6) Notation of any self-imposed plat restrictions;
- (7) Signature blocks for the Oakley City, Land Use Authority, City Engineer, Public Health Officer, City Attorney, applicable fire district, local electrical power provider, local natural gas provider (if applicable), and local culinary water provider (if different from City);
- (8) Notarized signatures on the plat by every person having a security interest in the property which sets forth that he/she is subordinating his/her liens to all covenants, servitude and easements imposed on the property, and all conditions of development approval proposed by the City;
- (9) All monuments erected, corners, and other points established in the field;
- (10) Plat notes stating that:

"Further subdivision of such lands, whether by deed, bequest, divorce, decree, or other recorded instrument, shall not result in a buildable lot until the same has been approved in accordance with the Oakley City Land Management and Development Code."

"The owners of property within Oakley City recognize the importance of agricultural lands and operations and small rural business enterprises. It is recognized that agricultural lands and operations and rural business enterprises have unique operating characteristics that must be respected. Owners of each lot platted in this subdivision/the owner of the residence constructed upon this lot have/has been given notice and recognize(s) that there are active agriculture lands and operations and rural business enterprises within Oakley City and acknowledge(s) and accept(s) that, so long as such lands and operations exist, there may be dust, noise, odor, prolonged work hours, use of roadways for the purposes of herding/moving livestock, and other attributes associated with normal agricultural operations and rural businesses."

If serviced by a private water system:

"Water has not been approved for this site. It shall be the responsibility of each lot owner to demonstrate that water of adequate quality and quantity is available for each lot prior to the issuance of a building permit. This shall be

accomplished with a memorandum of decision from the state engineer for a private well, spring or a written commitment from a private water company."

- g. Following final action on the final subdivision plat which results in an approval, a current (within 30 days) preliminary title report covering all property located within the subdivision;
- h. Following final action on the final subdivision plat which results in an approval, a 24" x 36" mylar of a scaled (1" = 100') final subdivision plat prepared by a surveyor or civil engineer licensed in the State of Utah, including all items listed in subsection B2f of this section.

3. **Review Procedure:**

- a. **Optional Sketch Plan:** Prior to submitting a formal application for a subdivision review, an applicant may exercise the voluntary option to submit a Sketch Plan, which shall contain enough information in graphic and text form to adequately describe the applicant's intentions with regard to the proposed development. Sketch Plans shall be drawn to a convenient scale of not more than one hundred feet to an inch (1" = 100'), unless otherwise approved by the City Planner.

- (1) **Sketch Plan Review:** The City Planner shall review the Sketch Plan and identify any relevant issues for the applicant to address with the preliminary subdivision plat application, as well as any additional information necessary to establish the project's compliance with the standards and requirements of this chapter. A Sketch Plan shall be reviewed by the Planning Commission for preliminary input.

- b. **Preliminary Subdivision Plat Review Procedure:**

- (1) The City Planner shall secure input regarding the proposed subdivision from all affected agencies and service providers including, but not limited to utility providers, the Summit County Health Department, the Fire District, City Engineer, and the City Public Works Department. Upon receiving such input, the City Planner shall prepare a staff report analyzing the proposed preliminary subdivision plat's compliance with the review standards set forth herein and identifying any compliance-related issues related to the application.
- (2) The staff report and all application submittal materials shall be forwarded to the Planning Commission. The City Planner shall provide notice of the preliminary subdivision plat application to all adjacent property owners in the manner set forth in this chapter and as per 13-1-20 of this Title.
- (3) The City Planner shall schedule the matter before the Planning Commission for a public hearing and possible

action. Following the public hearing, the Planning Commission shall make a recommendation to the City Council regarding an approval, approval with conditions, or denial of the application and preliminary plat.

- (4) The City Council shall take final action on the proposed preliminary subdivision plat after holding a public hearing which is noticed as per 13-1-20 of this Title.

C. Final Subdivision Plat Review Procedure:

- (1) Once the final subdivision plat is approved by the City Council and all applicable signatures are obtained on the final mylar, the City Attorney will review the preliminary Title report for acceptability. The Title report must be current (within 30 days).
- (2) The last signature on the Final Plat should be the City Mayor. The Mayor may withhold a signature if any conditions of the subdivision approval process have not been met or if certain agreed to improvements have not been fully completed or guaranteed as per this Title.
- (3) Upon approval of the City Attorney and once all required signatures are obtained on the final mylar, the final subdivision plat shall be recorded in the records of the Summit County Recorder.

4. Criteria for Approval: Before a subdivision can be approved; it must conform to all of the following criteria:

- a. All of the land required for the density needed to create the lots within the subdivision, including a remnant parcel, which on its own would not be large enough to qualify for any density, shall be contained within the boundaries of the final subdivision plat, and any remnant parcel shall bear a plat note stating that no density exists on such remnant parcel until such time (if ever) as the zone is changed to permit additional density rights and the remnant parcel is, if necessary, re-subdivided in accordance with this chapter; or the remnant parcel is otherwise vacated from the final subdivision plat for the purposes of a parcel boundary adjustment, which shall constitute good cause thereof under State law.
- b. In the event that the parcel(s) being subdivided contain more land than that which is needed to establish the density for the subdivision, such remainder parcel(s) do not need to be included within the boundaries of the final subdivision plat if each of such remainder parcel(s) (or such number of them if contiguous) conform to the minimum size requirement of the applicable zone at the time. In such cases, a certificate executed by the City shall be recorded with the Summit County Recorder, at the same time as the final subdivision plat is recorded, against the remainder parcel(s) located outside of the final subdivision plat stating that

such remainder parcel(s) are conforming parcels pursuant to this chapter.

- c. Each proposed lot shall have legal access through a recorded right-of-way or easement. The applicant shall demonstrate that adequate access to the property from a public road may be granted by the State, County, or City, whichever is applicable.
- d. Compliance with the development evaluation standards provided in chapter 3 of this Title.
- e. Compliance with the infrastructure standards in chapter 9 of this Title.
- f. The minimum lot size for new lots created through this process will meet the minimum lot size requirements for the applicable zone.
- g. If the subdivision includes any land located within one hundred feet (100') of the center line of a canal, the City Planner shall:
 - (1) Within thirty (30) days after the day on which the application is filed, notify the canal company or canal operator responsible for the canal, if the canal company or canal owner has provided information under Utah Code Annotated 10-9a-213.
 - (2) Wait at least ten (10) days after the day on which the City Planner notifies a canal company or canal operator to approve, approve with conditions or reject the final subdivision plat.
- h. An approval from the Summit County Health Department.
- i. Proof that property taxes for the applicable property have been paid.
- j. All on-site and required off-site improvements are completed or properly guaranteed as per Chapter 13-7 of this Title.
- k. Compliance with this Title and all applicable City regulations.

C. **Subdivisions Consisting of Four or More Lots:**

- 1. **Master Planned Development Required:** In the following cases, a Master Planned Development approval is required pursuant to section 13-5-10 of this chapter:
 - a. Any application to subdivide at base density resulting in four (4) or more lots or parcels.
 - b. Any proposal which includes the movement of density between zones on a single parcel which results in the creation of four (4) or more lots.
- 2. **Submission Requirements:** An application for subdivision consisting of four (4) or more lots shall include the information set forth below. The City Planner may waive specific submittal requirements if he or she determines that the submittal requirement(s) are not necessary to demonstrate compliance with the provisions of this chapter.

- a. Completed subdivision application signed by the owner;
- b. Subdivision application fee payment;
- c. The subdivision shall contain sufficient land area necessary to meet the density requirements of the zone;
- d. Name and address, including email address and telephone number, of all the owners, and citation of last instrument conveying title to each parcel of property involved in the proposed subdivision, giving grantor, grantee, date, and land records reference;
- e. One (1) copy of a survey prepared by a surveyor licensed in the State including the following information:
 - (1) The name of the land surveyor;
 - (2) Approximate true north arrow;
 - (3) Legal description and location of property, including citation of any existing legal rights-of-way, public and private roads, streets, irrigation ditches, water bodies, streams/rivers, structures, and/or other physical improvements affecting the property; including existing covenants on the property, if any;
 - (4) A delineation of environmentally sensitive areas, including floodplains, delineated wetlands, ridgelines and slopes exceeding thirty percent (30%);
- f. Two (2) copies (one 11" x 17" copy and one 24" x 36" copy) of the proposed final subdivision plat and one (1) electronic copy of a scaled final subdivision plat prepared by a surveyor or civil engineer licensed in the State of Utah, including:
 - (1) The subdivision name and date of plat creation. The subdivision name may not be the same name as any existing recorded subdivision in Oakley City, Utah;
 - (2) The name of the land surveyor;
 - (3) Approximate true north arrow;
 - (4) The plat scale and the location and dimensions of all boundary lines of the property (expressed in feet and in decimals of a foot), the locations, dimensions, and areas of all proposed lot, rights-of-way, easements; consecutively numbered or lettered lots with addresses (subject to final review and approval by the City);
 - (5) Notation of any required plat restrictions;
 - (6) Signature blocks for the Oakley City, Land Use Authority, City Engineer, Public Health Officer, City Attorney, applicable fire district, local electrical power provider, local natural gas provider (if applicable);
 - (7) Notarized signatures on the plat by every person having a security interest in the property which sets forth that

- he/she is subordinating his/her liens to all covenants, servitude and easements imposed on the property, and all conditions of development approval proposed by the City;
- (8) All monuments erected, corners, and other points established in the field;
 - (9) Plat notes stating that:

"Further subdivision of such lands, whether by deed, bequest, divorce, decree, or other recorded instrument, shall not result in a buildable lot until the same has been approved in accordance with the Oakley City Land Management and Development Code."

"The owners of property within Oakley City recognize the importance of agricultural lands and operations and small rural business enterprises. It is recognized that agricultural lands and operations and rural business enterprises have unique operating characteristics that must be respected. Owners of each lot platted in this subdivision/the owner of the residence constructed upon this Lot have/has been given notice and recognizes that there are active agriculture lands and operations and rural business enterprises within Oakley City and acknowledge(s) and accept(s) that, so long as such lands and operations exist, there may be dust, noise, odor, prolonged work hours, use of roadways for the purposes of herding/moving animals, and other attributes associated with normal agricultural operations and rural businesses."

If serviced by a private water system:

"Water has not been approved for this site. It shall be the responsibility of each lot owner to demonstrate that water of adequate quality and quantity is available for each lot prior to the issuance of a building permit. This shall be accomplished with a memorandum of decision from the state engineer for a private well, spring or a written commitment from a private water company."

- g. Following final action on the final subdivision plat which results in an approval, a current (within 30 days) preliminary title report covering all property located within the subdivision;
- h. Following final action on the final subdivision plat which results in an approval, a 24" x 36" mylar of a scaled (1" = 100') subdivision final plat prepared by a surveyor or civil engineer licensed in the

State of Utah, including all items listed in subsection C2f of this section.

3. **Review Procedure:**

a. **Sketch Plan:** Prior to submitting a formal application for a subdivision review, an applicant will submit a Sketch Plan, which shall contain enough information in graphic and text form to adequately describe the applicant's intentions with regard to the proposed development. Sketch Plans shall be drawn to a convenient scale of not more than one hundred feet to an inch (1" = 100'), unless otherwise approved by the City Planner.

(1) **Sketch Plan Review:** The City Planner shall review the Sketch Plan and identify any relevant issues for the applicant to address with the preliminary subdivision plat application, as well as any additional information necessary to establish the proposed subdivision's compliance with the standards and regulations of this chapter. A Sketch Plan shall be reviewed by the Planning Commission for preliminary input at the direction of the City Planner.

b. **Preliminary Subdivision Plat Review Process:**

(1) The City Planner shall secure input regarding the proposed subdivision from all affected agencies and service providers including, but not limited to utility providers, the Summit County Health Department, Fire District, City Engineer, and City Public Works Department. Upon receiving such input, the City Planner shall prepare a staff report analyzing the proposed preliminary subdivision plat's compliance with the review standards set forth in this section and identifying any compliance-related issues related to the proposal.

(2) The staff report and all application submittal materials shall be forwarded to the Planning Commission. The City Planner shall provide notice of the proposed preliminary subdivision plat application to all property owners in the manner set forth in this chapter and schedule the application for a public hearing before the Planning Commission as per 13-1-20 of this Title.

(3) The City Planner shall schedule the matter before the Planning Commission for a public hearing and possible action. Following the public hearing, the Planning Commission shall make a recommendation to the City Council regarding an approval, approval with conditions, or denial of the application and preliminary plat.

(4) The City Council shall take final action on the proposed preliminary subdivision plat after holding a public hearing which is noticed as per 13-1-20 of this Title.

- c. **Final Subdivision Plat Review Process:**
 - (1) Once the final subdivision plat is approved by the City Council and all applicable signatures are obtained on the final mylar, the City Attorney will review the preliminary title report for acceptability. The title report must be current (within 30 days).
 - (2) The last signature on the Final Plat should be the City Mayor. The Mayor may withhold a signature if any conditions of the subdivision approval process have not been met or if certain agreed to improvements have not been fully completed or guaranteed as per this Title.
 - (3) Upon approval of the City Attorney and once all required signatures are obtained, the detailed final subdivision plat shall be recorded in the records of the Summit County Recorder.
- 4. **Criteria for Approval:** Before a subdivision can be approved; it must conform to all of the following criteria:
 - a. All of the land required for the density needed to create the lots within the subdivision, including a remnant parcel, which on its own would not be large enough to qualify for any density, shall be contained within the boundaries of the final subdivision plat, and any remnant parcel shall bear a plat note stating that no density exists on such remnant parcel until such time (if ever) as the zone is changed to permit additional density rights and the remnant parcel is, if necessary, re-subdivided in accordance with this chapter; or the remnant parcel is otherwise vacated from the final subdivision plat for the purposes of a parcel boundary adjustment, which shall constitute good cause thereof under State law.
 - b. In the event that the parcel(s) being subdivided contain more land than that which is needed to establish the density for the subdivision, such remainder parcel(s) do not need to be included within the boundaries of the final subdivision plat if each of such remainder parcel(s) (or such number of them if contiguous) conform to the minimum size requirement of the applicable zone at the time. In such cases, a certificate executed by the City shall be recorded with the Summit County Recorder, at the same time as the final subdivision plat is recorded, against the remainder parcel(s) located outside of the final subdivision plat stating that such remainder parcel(s) are conforming parcels pursuant to this chapter.
 - c. Each proposed lot shall have legal access through a recorded right-of-way or easement. The applicant shall demonstrate that adequate access to the property from a public road may be granted by the State or City, whichever is applicable.

- d. Compliance with the development evaluation standards provided in chapter 3 of this Title.
- e. Compliance with the infrastructure standards in chapter 9 of this Title.
- f. If the subdivision includes any land located within one hundred feet (100') of the center line of a canal, the City Planner shall:
 - (1) Within thirty (30) days after the day on which the application is filed, notify the canal company or canal operator responsible for the canal, if the canal company or canal owner has provided information under Utah Code Annotated 10-9a-213.
 - (2) Wait at least ten (10) days after the day on which the City Planner notifies a canal company or canal operator to approve, approve with conditions or reject the final subdivision plat.
- g. The minimum lot size for new lots created through this process will meet the minimum lot size requirements for the applicable zone.
- h. An approval from the Summit County Health Department.
- i. Proof that the taxes for the applicable property have been paid.
- J. All on-site and required off-site improvements are completed or properly guaranteed as per Chapter 13-7 of this Title.
- k. Compliance with this Title and all applicable City regulations.

D. Condominium Plats:

1. **Plat Requirements:** A plat is required in all cases which satisfy the definition of condominium. A condominium plat shall contain the information required for a Final Site Plan as identified in section 13-5-6 of this chapter. Covenants, Conditions and Restrictions for the development shall also be submitted for review by the City Attorney prior to recordation of the condominium plat.
2. **Review Procedure:** The review procedure for a condominium plat shall be the same as the review procedure for subdivisions consisting of four (4) or more lots, as outlined above in section 13-5-5 C of this chapter.
3. **Issuance of Building Permit:** A building permit for condominium units can be issued following approval of the condominium plat by the Planning Commission as provided in this chapter. A building permit will be issued based upon a certified architectural plan of the building elevation and floor plans as approved by the building official.
4. **Filing:** All condominium plats shall be filed with the Summit County Recorder following completion of construction and before acceptance of improvements.

E. Subdivision Plat Amendments:

All subdivision plat amendments, including lot line and boundary amendments will comply this section. If there is discovered any conflict with current Utah State statute regarding any portion of this section, said statute shall prevail where applicable.

1. **Submission Requirements:** Any request for a proposed vacation, alteration or amendment of a final subdivision plat, any portion of such final subdivision plat, or any public or private road or lot contained in such plat shall require the application for a subdivision plat amendment. An application for a subdivision plat amendment shall include the information set forth below. The City Planner may waive specific submittal requirements if he or she determines that the submittal requirement(s) are not necessary to demonstrate compliance with the provisions of this chapter.
 - a. Completed subdivision plat amendment application including a description of all proposed amendments to the final subdivision plat;
 - b. Proof that property taxes for the applicable property have been paid;
 - c. Subdivision plat amendment application fee payment;
 - d. Name and address, including email address and telephone number, of the owner(s), and citation of last instrument conveying title to each parcel of the property involved in the subdivision plat amendment, giving grantor, grantee, date, and land records reference;
 - e. The signature of each owner who consents to the subdivision plat amendment;
 - f. Two (2) copies (one 11" x 17" copy and one 24" x 36" copy) of the proposed subdivision plat amendment and one (1) electronic copy of a scaled final subdivision plat prepared by a surveyor or civil engineer licensed in the State of Utah, including:
 - (1) The subdivision plat amendment name and date of plat creation;
 - (2) The name of the land surveyor;
 - (3) Approximate true north arrow;
 - (4) The plat scale and the location and dimensions of all boundary lines of the property (expressed in feet and in decimals of a foot), the locations, dimensions, and areas of all proposed lot, rights-of-way, easements; and remainder parcels (if applicable);
 - (5) Consecutively numbered or lettered lots with addresses authorized by the City;

- (6) Notation of any self-imposed plat restrictions or revisions thereof;
- (7) Signature blocks for the Summit County Recorder, City Planner, City Engineer, Public Health Officer, City Attorney, Fire District, local power and gas providers (if applicable), and local culinary water provider (if different from the City);
- (8) Endorsement on the plat by every person having a security interest in the property which sets forth that he/she is subordinating his/her liens to all covenants, servitude and easements imposed on the property, and all conditions of development approval proposed by the City;
- (9) All monuments erected, corners, and other points established in the field;
- (10) Following final action on the subdivision plat amendment which results in an approval, a current (within 30 days) preliminary title report covering all property located within the subdivision;
- (11) Following final action on the subdivision plat amendment which results in an approval, a 24" x 36" mylar of a scaled (1" = 100') final subdivision plat prepared by a surveyor or civil engineer licensed in the State of Utah, including all items listed in subsection E1f of this section.

2. **Lot Combinations and Lot Line Adjustments:**

- a. **Land Use Authority:** The City Planner shall be the Land Use Authority for all subdivision plat amendments resulting in the combination of lots and adjusting and/or altering lot lines within a final subdivision plat.
- b. **Written Notice:** Prior to the approval of a subdivision plat amendment the City Planner shall provide written notice by first class mail a minimum of ten (10) days in advance of the requested action to all affected entities.
- c. **Review and Decision:** The City Planner shall take final action on an application for a subdivision plat amendment based on the standards set forth in this chapter and Utah State law. The final action shall become effective on the date that the final subdivision plat is signed by the City Planner.
- d. **Referral of Application by City Planner to Planning Commission:** The City Planner may refer any subdivision plat amendment application to the Planning Commission if the City Planner determines the application to be complex or to result in a significant change to the property or the surrounding area; or if a written objection against the application is received within ten (10) calendar days of the mailed notice set forth in subsection E7a of this section. The Planning Department shall schedule the matter before the Planning Commission for a public hearing and possible

action. Following the public hearing, the Planning Commission shall make a recommendation to the City Planner approving, approving with conditions, or denying of the application.

3. **Other Subdivision Plat Amendments Not Involving A Private or Public Road:**

- a. **Land Use Authority:** The Planning Commission shall be the Land Use Authority for all subdivision plat amendments that result in building pad adjustments, subdivision title changes, plat note revisions, altering of utility easements, vacations and all other amendments that do not affect a public or private road.
- b. **Public Hearing:** The Planning Commission shall hold a public hearing prior to taking final action on a proposed subdivision plat amendment.

4. **Subdivision Plat Amendments Altering or Vacating A Private Road:**

- a. **Land Use Authority:** The Planning Commission shall be the Land Use Authority for subdivision plat amendments involving the alteration or vacation of a private road.
- b. **Public Hearing:** The Planning Commission shall hold a public hearing prior to taking final action on a request to alter a private road within a final subdivision plat.

5. **Subdivision Plat Amendments Altering or Vacating A Public Road:**

- a. **Land Use Authority:** The City Council shall be the Land Use Authority for subdivision plat amendments involving the alteration or vacation of a public road within a subdivision. The final action of the City Council shall be based upon compliance with State law and shall be in the form of an ordinance.
- b. **Public Hearing by Planning Commission:** The Planning Commission shall hold a public hearing in accordance with this chapter. The Planning Commission shall forward a recommendation to the City Council.
- c. **Public Hearing by City Council:** The City Council shall hold a public hearing in accordance with this chapter prior to taking final action on a request to alter or vacate a public road shown on a final subdivision plat.

6. **Subdivision Plat Amendments Which Amount to a Re-Subdivision:** Re-subdivisions shall conform to the minimum lot size within the zone, comply with all applicable regulations of this Title, honor existing plat note restrictions, and follow the appropriate processes in subsection B or C of this section.

7. **Notice of Public Hearings for Subdivision Plat Amendments:** In the event that a public hearing is required or the City Planner elects to hold a public hearing, the following requirements shall apply:

- a. **Written Notice:** The Planning Department shall give written notice of any proposed subdivision plat amendment and associated public

hearing. Notice shall be by first class mail a minimum of ten (10) calendar days in advance of the requested action to all owners of property located within the subdivision, to each owner of property within one thousand feet (1,000') from the lots being amended, and to all affected entities.

- b. **Private or Public Road Vacation, Alteration, or Amendment Notice:** If the proposed subdivision plat amendment involves the vacation, alteration, or amendment of a private or public road, the Planning Department shall give notice of the date, place, and time of the public hearing by mailing notice, as required in this chapter and following procedures as per 13-1-20 of this Title.
- c. **Required Public Hearing Timeframe:** Once a subdivision plat amendment application is filed and it is determined that a public hearing is required, the Land Use Authority shall hold the public hearing within forty-five (45) days following the receipt of a complete application.

8. **Waiver of The Public Hearing Requirement for Subsection E3:** At the discretion of the City Planner, any public hearing requirement may be waived for subdivision plat amendments if the following criteria are met:

- a. The name and address and consenting signatures of all owners of record of the land contained in the entire subdivision are submitted with the application; or
- b. The signatures of all owners within the subdivision acknowledging consent to the amendment are submitted with the application.

9. **General Criteria:**

- a. Upon final approval of the subdivision plat amendment, the following signatures are required on the amended final subdivision plat:
 - (1) **Owners:** Notarized signatures of each owner of record of the portion of the final subdivision plat that is amended is required.
 - (2) **City Planner:** If the subdivision plat amendment results in a lot combination or lot line adjustment set forth in subsection E2 of this section, the signature of the City Planner is required.
 - (3) **Planning Commission:** If the subdivision plat amendment results in either the alteration or vacation of a private road in accordance with subsection E4 of this section, or the adjustment of a building pad, subdivision title change, plat note revision, and any other amendments that do not affect a public road as set forth in subsection E3 of this section, the signature of the Chair of the Planning Commission is required.
 - (4) **City Council:** If the subdivision plat amendment results in an alteration or vacation of a public road on a final

subdivision plat pursuant to subsection E5 of this section, the signature of the City Mayor is required.

- (5) **Other Signatures:** The signatures of the County Recorder, City Engineer, City Attorney, and County Assessor are required. A Certificate of Consent from any and all mortgagors, lien holders, or others with a real property interest in the affected parcels is also required.
 - b. Once the application is approved and all applicable signatures are obtained on the amended final subdivision plat mylar, the City Attorney shall review a preliminary title report for acceptability.
 - c. Upon approval of the City Attorney, and once all required signatures are obtained on the mylar, the amended final subdivision plat shall be recorded in the records of the Summit County Recorder.
10. **Grounds for Vacating or Amending A Subdivision Plat Not Involving A Private or Public Road:**
- a. If the Land Use Authority is satisfied that the public interest will not be materially injured by the proposed vacation, alteration or amendment, and there is good cause for the vacation, alteration or amendment, the Land Use Authority, may vacate, alter or amend the final subdivision plat, or any portion of the final subdivision plat.
 - b. No subdivision plat amendment shall be approved which results in an increase in density unless the requirements set forth in subsection E6 of this section for a re-subdivision have been satisfied.
11. **Grounds for Vacating or Amending A Public or Private Road Within A Subdivision Plat:**
- a. If the Land Use Authority is satisfied that there is good cause for the vacation, alteration or amendment, and the public interest or any person shall not be materially injured by the proposed vacation, alteration or amendment, the Land Use Authority may vacate, alter or amend a public or private road within a final subdivision plat.
 - b. No subdivision plat amendment that vacates, alters or amends a public or private road shall be approved which results in an increase in density except as provided in subsection E10 of this section.
12. **Appeal:** An aggrieved party may appeal the final action on a subdivision plat amendment in accordance with the appeals procedures set forth in section 13-1-16 of this Title.

F. Parcel Boundary Adjustments:

1. A property owner:

- a. May execute a parcel boundary adjustment by quitclaim deed or by boundary line agreement as described in Utah Code Annotated section 10-9a-522, 10-9a-523, or 57-1-45.
- b. Shall record the quitclaim deed or boundary line agreement in the Office of the Summit County Recorder.
2. A parcel boundary adjustment is not subject to the review of the Land Use Authority.
3. Creation of any new legal description through this process does not affect the status of the parcel as a conforming parcel.

G. Divisions of Land for Non-Development Purposes:

1. A division of a parcel for agricultural activity is not a subdivision for purposes of this chapter.
2. A division of a parcel without conformance to the final subdivision plat requirements of this chapter or the certificate required by Utah Code Annotated section 10-9a-605(1), as amended, does not create a conforming parcel for purposes of this chapter. However, in conformance with Utah Code Annotated section 10-9a-605(3), as amended, such divisions of land can be recorded for purposes of conveying property ownership.

13-5-6: FINAL SITE PLANS:

A. Information Required: A detailed Final Site Plan is required for all conditional use permits and for other types of permits which do not require a final subdivision plat. Final Site Plans shall contain the information set forth in this section. The City Planner may waive specific submittal requirements if it is determined that the submittal requirement(s) are not necessary to demonstrate compliance with the provisions of this chapter.

1. A vicinity map at a scale of not less than one inch equals one thousand feet (1" = 1,000').
2. A legal description and accompanying map exhibit of the exterior boundaries of the development area giving lengths and bearings of the boundary lines at the scale of one inch equals one hundred feet (1" = 100'), showing the location and type of boundary evidenced. Such information should be provided from the recorded plats. The legal description shall include the following data:
 - a. Metes and bounds of all property lines;
 - (1) Total area of property;
 - (2) North scale and north arrow; and
 - b. Name and route numbers of boundary roads and the width of existing rights-of-way.
3. Existing topography with maximum contour intervals of two feet (2').

4. A final detailed land use plan at a scale of not less than one inch equals one hundred feet (1" = 100') showing:
 - a. The location and arrangement of all proposed uses, including building area.
 - b. The height and number of floors of all buildings, other than single-family dwelling units, both above and below or partially below the finished grade.
 - c. A cross section elevation plan depicting all buildings, structures, monuments, and other significant natural and manmade features of the proposed development.
 - d. The yard dimensions from the development boundaries and adjacent private and public roads and alleys.
 - e. The traffic and the pedestrian circulation system, including the location and width of all public and private roads, driveways, entrances to parking areas and parking structures, trails, walkways and bicycle paths.
 - f. Off street parking and loading areas and structures, and landscaping for parking areas.
 - g. Greenspace and other active recreation space areas, together with proposed private recreational areas, specifying the proposed improvement of all such areas, and delineating those areas proposed for specific types of recreational facilities.
 - h. Architectural features of typical proposed structures, including lighting fixtures, signs and landscaping.
 - i. A plan or statement showing the location and design of all screening measures and indicating the type and height of such screening.
 - j. When the development is to be constructed in stages or units, a final sequence of development schedule showing the order of construction of such stages or units, and approximate completion date for the construction of each stage or unit.
 - k. A copy of all Covenants, Restrictions and Conditions pertaining to the use, maintenance and operation of private open space areas.
 - l. All existing monuments found during the course of the survey (including a physical description such as "brass cap").
 - m. All existing easements or rights-of-way, including those contiguous to the platted area, their nature, width, and the book and page number of their recording in the Summit County Recorder's Office.
 - n. All rights-of-way and easements and trails (including open space) created by the development with their boundary, bearings, lengths, widths, name, number or purpose. For curved boundaries, the curve radius, central angle and length of arc shall be given.
 - o. A final statement in tabular form which sets forth the following data, when such data is applicable to a given development plan:

- (1) The area of all parcels created, total acreage, total acreage in lots, and total acreage in private or public roads or other dedicated parcels;
- (2) Total number of dwelling units, by development phase;
- (3) Residential density and units per acre;
- (4) Total floor area and floor area ratio for each type of use;
- (5) Total area in open space and length of trails;
- (6) Total area in developed recreational open space; and
- (7) Total number of off street parking and loading spaces.

B. **Site Plan Contents:** In addition to the requirements of subsection A of this section, the Final Site Plan shall conform to current surveying practice and shall show the following information:

1. A title block giving the development's name and the quarter-quarter section, section, township, range, principal meridian, and City of its location.
2. A notation of any adjoining plats or certificates of survey and titles thereto.
3. All monuments set during the course of the survey (including a physical description such as "rebar driven to depth of..."), including appropriate witness monuments.
4. The owner's Certificate of Consent, including a legal description of the subdivision's boundaries and the dedication of public ways or spaces. This certificate shall be signed, dated and notarized.
5. The owner's Certificate of Consent should include a reference to any covenants that may be declared and blanks where the Summit County Recorder may enter the book and page number of their recording.
6. A Certificate of Consent from any and all mortgagors, lien holders, or others with a real property interest in the subdivision. These Certificates of Consent shall be signed, dated and notarized.
7. A Surveyor's Certificate showing the name and registration number of the surveyor responsible for making the survey. This Surveyor's Certificate shall be signed and dated.
8. Signature blocks prepared for the dated signatures of the Planning Commission, City Mayor, County Recorder, City Engineer, City Attorney, electrical and gas utilities (when applicable) and the Fire District. A signature block shall also be provided for the Summit County Assessor indicating that all taxes, interest and penalties owing to the land have been paid.

C. **Site Plan Materials, Size, Copies:** Final site plans may be prepared on linen or on a stable base polyester film (mylar). Final site plans may be either eighteen inches by twenty-four inches (18" x 24"), or twenty-four inches by thirty six inches (24" x 36"). Three (3) paper copies shall be submitted along with the linen or film copy.

- D. **Multiple Sheets:** Multiple sheet final site plans may be used. All sheets shall be numbered and referenced to an index, and all required certificates shall appear on a single sheet (along with the index and vicinity maps).
- E. **Review Procedure:** The City Planner shall review the application for a final site plan, prepare a staff report, which makes recommendations and proposed findings, and present such to the Planning Commission. Following a lawfully advertised public hearing, the Planning Commission shall take final action on the application for a final site plan.

13-5-7: CONDITIONAL USE PERMITS:

- A. **Purpose:** It is recognized that there are activities which, because of the nature of the intended use and potential impact upon the enjoyment of neighboring properties, require special review. These uses, referred to as conditional uses, are identified in section 13-4-19, "Chart of Allowed and Permitted Uses", of this Title. Conditional uses shall be reviewed in accordance with the following criteria and procedures.
- B. **Findings for Approval:** Before an application for a conditional use permit is approved, the Planning Commission must conclude that factual evidence exists to verify the following findings:
 - 1. The proposed use, as conditioned, shall be appropriate in the particular location, taking into account the nature of the use, its relationship to surrounding uses and its impact on the natural environment.
 - 2. The proposed use, as conditioned, shall be in compliance with the development evaluations standards in chapter 3 of this Title.
 - 3. The applicant shall present evidence to show approval of the landowner for the particular use, unless the land is owned by the applicant and, in such case, the applicant shall submit proof of ownership.
 - 4. There are reasonable conditions that can be imposed which mitigate the reasonably anticipated detrimental effects of the proposed use.
 - 5. Standards used for review and approvals must be based on objective standards, which emphasizes that approvals with conditions are not based merely on subjective or personal preferences.
- C. **Review Procedure:**
 - 1. The applicant shall submit a completed application for a conditional use permit and all information set forth herein. The City Planner may waive specific submittal requirements based on a finding that the information is not necessary to evaluate the project's compliance with the standards of this chapter and Title. The City Planner or Planning Commission may require additional information based upon a finding that the information

is necessary to evaluate the project's compliance with the standards of this chapter.

2. The City Planner shall review the application and shall make findings and recommendations and shall schedule a review before the Planning Commission as soon thereafter as may be practicable.
3. The Planning Commission shall review the project and the staff report. After holding a public hearing noticed as per Section 13-1-20, the Planning Commission shall take final action on the application for a conditional use permit.
4. If a large or complex application could present significant changes to the property use or potentially impact the surrounding area(s), the City Planner or Planning Commission may refer the application to City Council for final approval. The City Council may also request the opportunity to review an application prior to final approval.
5. If the City Planner or Planning Commission determines that the application will require a second approval by the City Council, A second public hearing will be scheduled by the City Council and noticed as per Section 13-1-20. The City Council shall take final action on the application for a conditional use permit which may include additional or modified conditions to those recommended by the Planning Commission.

- D. **Time Limit for Action:** Unless otherwise approved by the Planning Commission, conditional use permits shall expire in one (1) year from the date of Planning Commission's written approval unless the conditional use permit activity has commenced. Once such activity has commenced, the conditional use permit shall vest and run with the land.
- E. **Periodic Review Process:** Conditional use permits are subject to periodic reviews by the City Planner to assess if the conditions of approval are being satisfied. If the original conditions associated with the conditional use permit are not being satisfied, the Planning Commission may commence a review of the conditional use permit and possible revocation action.
- F. **Establishment of a Conditional Use Permit:** Final action on an application for a conditional use permit shall be in the form of a signed letter or a recordable agreement (on more complex permits) issued by the City Planner to the applicant specifically identifying each condition together with the approved Final Site Plan and any other accompanying documents determined to be relevant by the City Planner.
- G. **Amendments to Conditional Use Permits:**
1. **Minor Amendment:** A minor amendment is defined as an amendment that does not increase the square footage, density, or intensity of a

previously approved conditional use permit. A minor amendment may be approved by the City Planner. No public hearing is required.

2. **Major Amendment:** A major amendment is defined as an amendment that increases square footage, density, and/or intensity of a previously approved conditional use permit. A major amendment may be commenced by filing an application for a conditional use permit and paying the fee for the review thereof. The application shall follow the review process set forth in subsection C of this section.

H. **Adult/Sex-Oriented Facilities:** See appendix C of this Title for adult/sex-oriented facilities and businesses requirements.

I. **Additional Criteria for Oil Wells, Gas Wells and Steam Wells:** An application for a conditional use permit shall be reviewed and approved for oil, gas, and steam wells according to the following additional criteria:

1. Access to the drill site shall utilize existing private and public roads as much as possible.
2. Any required grading and associated cut and fill areas shall be re-vegetated and contoured to maintain existing drainage patterns.
3. Erosion control best management practices in accordance with City engineering regulations shall be applied to all disturbed areas, including private and public roads, staging areas and drill site.
4. The drilling and production operation shall be conducted in such a manner as to minimize, so far as practicable, dust, noise, vibration, and odors.
5. All waste shall be disposed of in such a manner as to comply with the air and water quality regulations of the State, County, and City.
6. Firefighting apparatus and supplies, as approved by the County Wildland Fire Marshal or the South Summit Fire District, shall be maintained on the drilling site at all times during drilling and production operations.
7. Upon completion or abandonment of the well, all disturbed areas, including the drill site and staging areas shall be reclaimed by re-contouring the area to blend with the natural terrain, replacing topsoil and re-vegetating. A weed mitigation plan shall be implemented as part of the re-vegetation plan for all disturbed areas.
8. Drill sites and/or staging areas located on sensitive lands such as steep slopes and ridgelines or within one (1) mile of a residential area (including recreational cabins) or public buildings shall be subject to additional review criteria such as hours of operation, screening and buffering, fencing, traffic, and lighting.

J. **Additional Criteria for Wind Power Generation Facilities:** An application for a conditional use permit shall be reviewed and may be approved for wind power generation facilities according to the following additional criteria:

1. Access to the site shall utilize existing private and public roads as much as possible.
2. Any required grading and associated cut and fill areas shall be re-vegetated and contoured to blend into the natural terrain and maintain existing drainage patterns. A weed mitigation plan shall be implemented as part of the re-vegetation plan for all disturbed areas.
3. Erosion control Best Management Practices in accordance with City engineering regulations shall be applied to all disturbed areas, including private and public roads, staging areas and facility site.
4. Transmission and distribution lines shall be located along existing roadways where possible or in other locations that avoid vegetation disturbance and visual scaring of prominent hillsides.
5. All electrical distribution lines will be buried.
6. Facility sites located on sensitive lands such as steep slopes, ridgelines, view corridors or within one mile of a residential area (including recreational cabins) or public buildings shall be subject to additional review criteria such as screening, height, colors, and security fencing.

13-5-8: LOW IMPACT PERMITS:

- A. **Purpose:** The purpose of the low impact permit is to provide a process and procedure for reviewing and approving, approving with conditions, or denying a low impact use. Low impact uses are identified in section 13-4-19, "Chart of Allowed and Permitted Uses", of this Title. Upon compliance with the provisions of this section, a low impact permit may be granted by the City Planner, with reasonable conditions necessary for the protection and preservation of the public health, safety, and welfare.
- B. **Applicability:** A low impact permit is utilized to obtain administrative approval for projects determined to be low intensity and which are in conformance with the development evaluation standards and general regulations of this Title. An application for approval of a low impact permit shall be commenced by filing a plan and paying the applicable fee with the Planning Department.
- C. **Review Procedure:**
 1. The applicant shall provide a development plan and description of the proposed project. The plan shall contain enough information, in graphic and text form, to adequately describe to the satisfaction of the City Planner the applicant's intentions with regard to use, site layout and compliance with this chapter, and any applicable ordinance, development permit, or development agreement.
 2. In proposals where the City Planner determines that potential issues may arise or additional comment is needed or has been received from the community, a public hearing on the application may be scheduled with the

Planning Commission. Following the public hearing, the Planning Commission shall make a recommendation to the City Planner to either approve, approve with conditions or deny the low impact permit.

3. The City Planner shall determine whether the application is sufficient and in compliance with the provisions of this chapter. The City Planner may require the applicant to submit such additional information as may be necessary to determine whether the application conforms to the requirements of this chapter.
4. The City Planner shall take final action on the application for a low impact permit and shall communicate the decision to the applicant. The City Planner may impose all reasonable conditions necessary to ensure compliance with any applicable provisions of this Title. The City Planner may also provide written notice of such decision to any persons who have requested notice of such decision. Any person aggrieved by such decision may appeal the final action in accordance with the provisions of this Title.
5. The Planning Commission shall periodically be provided with a list of the low impact permits that have been issued by the City Planner.
6. Unless otherwise approved by the City Planner, Low Impact Permits shall expire in one (1) year from the date of the City Planner's written approval unless the Low Impact Permit activity has commenced. Once such activity has commenced, the Low Impact permit shall vest and run with the land.

D. **Findings for Approval:** Before a low impact permit is approved, the City Planner must conclude that factual evidence exists to verify the following findings:

1. The use conforms to all applicable requirements of this chapter and State and Federal regulations.
2. The use is consistent with the goals and policies of the General Plan.
3. The use conforms to all requirements in chapter 3, "Development Evaluation Standards", of this Title.
4. The use is not detrimental to public health, safety and welfare.
5. The use is appropriately located with respect to public facilities and services.
6. The natural topography, ridgelines, soils, critical areas, greenspaces, watercourses and vegetation shall be preserved where possible through careful site planning and design of access routes, circulation areas, buildings and other structures, parking areas, utilities, drainage facilities and other features.
7. The use is aesthetically compatible with adjoining uses and architecture.

13-5-9: TEMPORARY USE PERMITS:

A. **Purpose:** Upon compliance with the provisions of this section, a temporary use permit may be granted, upon reasonable conditions necessary for the protection and preservation of the public health, safety, and welfare. This section is intended

to provide a process and procedure for reviewing and approving, approving with conditions, or denying a temporary use.

B. **Findings for Approval:** Before an application for a temporary use permit is approved, the City Planner must conclude that factual evidence exists to verify the following findings:

1. The use shall not adversely affect, in a significant manner, the public health, safety, and welfare.
2. The proposed use shall be appropriate, on a temporary basis, in the particular location, taking into account the nature of the use, its relationship to surrounding uses and its impact on the natural environment.
3. The proposed use shall be in compliance with the development evaluations standards in chapter 3 of this Title.
4. The applicant shall present evidence to show approval of the landowner for the particular use, unless the land is owned by the applicant and, in such case, the applicant shall submit proof of ownership.
5. The site shall be returned to its original condition or, when significant disturbance has occurred, to a condition approved by the City Planner.

C. **Review Procedure:**

1. **Permit Application:** Temporary uses shall be permitted for a period not to exceed one (1) year. The applicant shall submit a completed application for a temporary use permit and all information deemed necessary and reasonable by the City Planner to permit the City the opportunity to conduct a detailed assessment of the impacts of the proposed use. The City Planner shall take final action on the application for a temporary use permit and shall communicate the decision to the applicant. Approval of a temporary use permit shall not be considered valid unless a specific period of time during which the use may exist and operate is designated. The City Planner may consider and approve one (1) 6-month extension of a temporary use permit beyond the one (1) year approval period after which the temporary use permit is no longer valid.
2. **Referral of Application by City Planner to Planning Commission:** The City Planner may refer any application for a temporary use permit or an extension of a temporary use permit to the Planning Commission due to the complexity of the application or the significance in change to the property or the surrounding area. The Planning Department shall schedule the matter before the Planning Commission for a public hearing. Following the public hearing, the Planning Commission shall make a recommendation to the City Planner regarding an approval, approval with conditions or denial of the temporary use permit.

13-5-10: MASTER PLANNED DEVELOPMENTS:

- A. **Intent:** A Master Planned Development (MPD) is a comprehensive project design strategy to create projects that best address site conditions, the characteristics of the surrounding properties, as well as community and market demands. The master planned development process also creates tools to promote the efficient use of land resources as well as efficient public infrastructure and utility services. The goal of this strategy is to produce superior project design through flexibility and innovation so as to advance the goals of the General Plan and this chapter.
- B. **Applicability:** The master planned development process shall be required in all zones for the following applications:
1. Any application for a rezone.
 2. Any application to subdivide at base density resulting in four (4) or more lots or parcels.
 3. Any application which includes the movement of base density or uses between zones on a single parcel which results in the creation of four (4) or more lots or parcels.
 4. Any application which includes a density bonus within a residential zone. This applicability can apply to a Minor Subdivision (3 or less lots).
 5. All applications for commercial uses, retail commercial establishments, offices, institutional uses or industrial uses with more than twenty thousand (20,000) square feet of floor area.
- C. **Uses:** A master planned development can only contain uses which are permitted or conditional within the zone(s) in which such are located, including rezones. When the project area includes parcels with differing zones, uses may be relocated across zone boundaries so long as the application is for a rezone and the Planning Commission and City Council determines that relocation results in a project design that advances the goals set forth in the General Plan.
- D. **Process:**
1. **Pre-Application Conference:** A required pre-application conference shall be held with staff in order for the applicant to become acquainted with the master planned development procedures and related City requirements and schedules. Staff may give preliminary feedback to the applicant based on information available at the conference and may inform the applicant of potential issues or special requirements which may result from the proposal.
 2. **The Master Planned Development Application:** A plan for the master planned development shall be submitted with a completed application form supplied by the City. A list of minimum requirements will accompany the application form. The application must include written consent by all owners of the property to be included in the master planned

development. Once an application is received, the City planner will review the application for completeness. The applicant will be informed if additional information is necessary to constitute a complete application.

3. **Planning Commission Review and Public Hearing; City Council Action:**

The City Council is the Land Use Authority for master planned developments. Prior to final action by the City Council, the Planning Commission is required to hold a minimum of one (1) public hearing prior to forwarding a recommendation to the City Council. This public hearing may be concurrent or in addition to the public hearings required in the preliminary subdivision plat approval process as outlined in 13-5-5 above. The City Council shall take final action on the application for a master planned development. City Council action shall be in the form of written findings of fact, conclusions of law, and in the case of approval, conditions of approval. Large or complex projects will necessitate that the conditions of the final approval be provided through a development agreement as per Section 13-9-9.

4. **Vesting of Approval:**

- a. **Master Planned Developments Not Associated with A Final Subdivision Plat:** Construction within the MPD area will be required to commence within five (5) years of the date of the City Council MPD approval. After construction commences, the MPD shall remain valid as long as it is consistent with the approved specific project-phasing plan as set forth in the approved Final Site Plan and associated documents. It is anticipated that the specific project-phasing plan may require review and re-evaluation of the project at specified points in the development of the project.
- b. **Master Planned Developments Not Associated with A Rezone, but Requiring A Final Subdivision Plat:** A final subdivision plat must be recorded within five (5) years of the date of the City Council MPD approval. Additionally, construction within the MPD area will be required to commence within five (5) years of the date of the City Council MPD approval. In the event that the required final subdivision plat recordation and construction commencement has not taken place in the prescribed timeframe, the MPD shall expire and the final subdivision plat shall be void.
- c. **Master Planned Developments Associated with A Rezone, but Not Requiring A Final Subdivision Plat:** Construction within the MPD area will be required to commence within five (5) years of the date of the City Council MPD approval. After construction commences, the MPD shall remain valid as long as it is consistent with the approved specific project-phasing plan as set forth in the approved final site plan and associated documents. It is anticipated that the specific project-phasing plan may require review and re-evaluation of the project at specified points in the development of the project. In the event that the required construction

commencement has not taken place in the prescribed timeframe, the MPD shall expire and the zone shall revert to the previous zone designation.

- d. **Master Planned Developments Associated with A Rezone and Final Subdivision Plat:** Unless otherwise extended per the provisions set forth in this chapter, a final subdivision plat associated with a rezone must be recorded within five (5) years of the date of the City Council MPD approval. Additionally, construction within the MPD area will be required to commence within five (5) years of the date of the City Council MPD approval. In the event that the required final subdivision plat recordation and construction commencement has not taken place in the prescribed timeframe, the MPD shall expire and the zone shall revert to the previous zone designation. After recordation of the final subdivision plat and the commencement of construction, the MPD shall remain valid as long as it is consistent with the approved specific project plan and associated documents.
- e. **Master Planned Developments Associated with A Density Bonus and Final Subdivision Plat:** A final subdivision plat associated with a density bonus must be recorded within five (5) years of the date of the City Council MPD approval. For phased developments, it shall be necessary to record the Phase 1 final subdivision plat within the prescribed five (5) year timeframe to vest the entire master planned development and density bonus. Additionally, construction within the MPD area will be required to commence within five (5) years of the date of the City Council MPD approval. In the event that the required final subdivision plat recordation and construction commencement has not taken place in the prescribed timeframe, the MPD shall expire and the final subdivision plat shall be void.
- f. **Master Planned Development Extensions:** An MPD applicant may apply to the City Council for an extension beyond the vesting limitations listed in this section, provided that extenuating circumstances can be clearly demonstrated, and that the public or City is not harmed by the extension.

5. **MPD Modifications:**

- a. **Minor Amendment:** A minor amendment is defined as an amendment that does not increase square footage, density, or intensity of the previously approved master planned development. A minor amendment shall be processed as a low impact permit.
- b. **Major Amendment:** A major amendment is defined as an amendment that increases square footage, density, or intensity of the previously approved master planned development. A major amendment shall be processed as a master planned development.

- E. **MPD Requirements:** All applications for a master planned development shall meet the following minimum requirements. Additional project information necessary for the project analysis may be required at the discretion of the City Planner, Planning Commission, or City Council.
1. **Density:** The maximum density permitted on the project site will be determined as a result of a site analysis. The maximum density shall not exceed that set forth in the proposed or existing zone, except as otherwise provided in this section. In cases where a project site contains more than one (1) zone, the City Council may permit the clustering of density irrespective of zone boundaries so long as the relocation results in the project advancing the goals set forth in the General Plan.
 2. **Density Bonus:** A density bonus may be permitted based on a site analysis and in accordance with the provisions and formula outlined in appendix B of this Title. Bonus density is a negotiated process and is not an entitlement or guarantee. Bonus density may be granted through a development agreement by one or more of the following as detailed in Appendix B:
 - a. Provision of permanent deed restricted open space.
 - b. Protection of the Weber River corridor.
 - c. Provision of public non-motorized trails.
 - d. Provision of water efficient landscape designs.
 - e. Other critical public infrastructure contributions
 3. **Setbacks:** The minimum setback around the exterior boundary of an MPD shall match the setbacks of the more restrictive/larger abutting zone setback. In some cases, that setback may be increased to create an adequate buffer to adjacent uses. The City Council may reduce or increase setbacks within the project from those otherwise required provided the project meets minimum Building Code and Fire Code requirements and can demonstrate that such change:
 - a. Maximizes agricultural land or open space; and/or
 - b. Avoids important natural features of the site.
 4. **Building Height:** The maximum building height for all structures within a master planned development shall not exceed the zone standard. The City Council may grant additional building height beyond the maximum zone standard up to forty-five feet (45') based on demonstrated good cause related, but not limited to, structured parking, affordable housing, deed restricted open space, community outdoor common area improvements or superior architectural design.
 5. **Reduction of Minimum Lot Size Requirements:** The City Council may reduce the minimum lot size specified in a zone if it finds the proposed decrease in minimum lot size improves the site design, clustering of buildings, and/or preservation of agricultural land or open space.
 6. **Open Space:** Master planned developments shall provide for open space or greenspace of at least ten percent (10%) of the site area regardless of

any possible bonus density approved. This minimum open space does not need to be permanently deed restricted but may be part of the existing lots and designated as such.

7. **Off-Street Parking:** Master planned developments shall meet the following off-street parking standards:
 - a. Residential uses:
 - (1) Single family dwelling unit (Minimum 2 spaces/unit)
 - (2) Duplex dwelling unit (Minimum 2 spaces/unit [total of 4/building])
 - (3) Accessory dwelling unit (Minimum 1 space/unit)
 - (4) Guest house (Minimum 1 space/unit)
 - (5) Multi-unit (3 or more units) (Minimum 1 space/unit)
 - b. Non-residential uses:
 - (1) Commercial/retail:
3 spaces/1,000 sq. ft. of net leasable floor area
 - (2) Commercial/restaurant-café:
3 spaces/1,000 sq. ft. of net leasable floor area
 - (3) Hotel/lodging:
1 space/guest room or suite; 2 spaces/1,000 sq. ft. support commercial
 - (4) Offices:
2.5 spaces/1,000 sq. ft. net leasable area

The off-street parking requirements for any other uses not listed above shall be determined by the City Council based on a project-specific parking study. The City Council may reduce or increase the overall parking requirement for a master planned development based upon the applicant demonstrating reasonable justifications for the increase/decrease in parking spaces. The City Council may grant additional exterior/surface parking provided such parking is designed to include permeable surfaces, additional landscaping and buffering. Additional off-street parking regulations are found in section 13-9-22.

8. **Designing with The Topography:** Master planned developments shall be designed to fit into the topography of the site. The City Council may consider flexibility in the siting of development so as to best fit into the natural terrain, minimize excessive site grading and mitigate impacts on the natural environment and resources of the surrounding area. The project design shall demonstrate the preservation of watercourses, drainage areas, wooded areas, rough terrain and similar natural features and areas.
9. **Designing with Adjacent Uses:** The master planned development plan shall take adjacent land uses into consideration. Development along the project perimeter shall adequately mitigate any potentially adverse effects, including but not limited to flooding, erosion, subsidence, sloping of the soil or other dangers and nuisances.

10. **Access:** All master planned developments shall have vehicular access from a public road or suitable private road. All projects of eight (8) or more lots shall have a secondary point of access/emergency access unless otherwise mitigated to the satisfaction of the City Engineer and/or Fire Marshal. All roads/streets shall follow the natural contours of the site wherever possible to minimize the amount of grading.
11. **Utilities:** Existing or proposed utilities, including private and public services for master planned developments will be adequate to support the proposed project at normal service levels and will be designed in a manner to avoid adverse impacts on adjacent land uses, public services, and utility resources. Unless otherwise permitted by this chapter, all master planned developments shall comply with all requisite infrastructure standards found in chapter 9 of this Title.
12. **Building Locations:** All buildings shall be located to avoid, to the extent practicable, valuable greenspaces, wetlands, riparian areas, steep slopes and ridgelines. Building locations and associated lot configurations should be oriented to encourage active and passive solar design principles wherever practicable.
13. **Connectivity:** Internal and external vehicular/pedestrian/bicycle circulation should be demonstrated at the time of application as deemed necessary by the City Council. Pedestrian/equestrian/bicycle circulation trails and paths should be separated from vehicular circulation wherever reasonable.
14. **Snow Storage:** Master planned developments shall include adequate areas for snow removal and snow storage. An appropriate form of landscaping plan shall allow for snow storage areas. Structures shall be set back from any hard surfaces so as to provide adequate areas to remove and store snow. The assumption is that snow should be able to be stored on site and not removed to an off-site location.
15. **Outdoor Lighting:** All outdoor lighting shall meet the City's Dark Sky standards and will be down directed and fully shielded. All outdoor lighting shall be designed and installed to prevent light trespass on adjacent properties. See section 13-9-18 for further regulations.
16. **Compliance with Development Evaluation Standards:** Unless otherwise permitted by this chapter, all master planned developments shall comply with all requisite development evaluation standards found in chapter 3 of this Title.
17. **Site Design Narrative:** An application for a master planned development shall include a written explanation of how the project plan addresses the following design questions:
 - a. **Neighborhood Connectivity:** How does the proposed development interconnect and the surrounding properties, neighborhood, and area? Including but not limited to:
 - (1) Where will vehicles enter and exit the site?
 - (2) Where will new streets be developed?

- (3) Is there a need for pedestrian and bicycle routes (including trails and sidewalks) through the project area? If so, how are such needs addressed?
 - b. **Availability of Neighborhood Facilities and Services:** Is the location of the proposed development within reasonable proximity (including walking and biking) to community facilities such as schools, retail centers, parks, etc.?
 - c. **Meeting Housing Needs:** How does the proposed development advance the community need for a mix of housing types and affordability?
 - d. **Character:** What are the architectural design character objectives of the proposed development? How do these design objectives address the local context, climate, and/or community needs?
 - e. **Site Design:** How is the proposed development designed to take advantage of the existing topography, landscape features, trees, wildlife corridors, existing structures, minimize site grading, etc.?
 - f. **Complete Street Design:** How is the proposed development street/circulation system designed to accommodate a variety of transportation modes (where appropriate), easy route finding, and safe speeds?
 - g. **Parking Areas:** How does the proposed development balance the need for parking with the need to design parking areas in a manner that minimize visibility, site grading, and exterior lighting?
 - h. **Public and Private Outdoor Spaces:** What are the proposed development's need(s) for outdoor space, open space, greenspace, habitat/wildlife areas, parks, or outdoor amenity areas? How does the proposed development address these needs?
 - i. **External Storage:** How does the proposed project address needs for garbage collection, equipment storage, etc.?
- F. **Required Findings and Conclusions of Law:** The City Council must find sufficient evidence that supports the following conclusions in order to approve a master planned development. In some cases, conditions of approval will be attached to the final action to ensure compliance.
- 1. The master planned development is designed to fit well into the natural terrain, minimize excessive site grading and protect and preserve the surrounding area.
 - 2. The master planned development makes suitable provisions for the protection, preservation, and enhancement of greenspaces, watercourses, drainage areas, wooded areas, rough terrain and similar natural features.
 - 3. The master planned development takes adjacent land uses into consideration and mitigates potential impacts, including but not limited to flooding, erosion, subsidence, sloping of the soil or other dangers and nuisances, through careful planning.

4. The master planned development has direct vehicular access from a public road or suitable private road or driveway access meeting all requirements of the City Engineer and Fire Marshal.
5. The master planned development has a secondary point of access/emergency access or other mitigation satisfactory to the Oakley City Engineer and Fire Marshal.
6. All roads/streets and trails within the master planned development follow the natural contours of the site wherever possible to minimize the amount of grading.
7. Existing or proposed utility and public services are adequate to support the proposed master planned development at normal service levels and are designed in a manner to avoid adverse impacts on adjacent land uses, public services, and utility resources.
8. The proposed structures within the master planned development are located on reasonably developable portions of the site. The open areas and greenspaces within the master planned development are designed so that existing significant vegetation can be maintained to the greatest degree possible.
9. The master planned development includes adequate internal vehicular and, where deemed necessary, pedestrian/equestrian/bicycle circulation.
10. The master planned development includes adequate areas for snow removal and snow storage.
11. All exterior lighting within the master planned development is down directed and fully shielded.
12. The master planned development, as conditioned, complies with all the requirements of this chapter.
13. The master planned development, as conditioned, is consistent with the General Plan.
14. The master planned development has been noticed and a public hearing held in accordance with this chapter and as per 13-1-20 of this Title.
15. An approval is received from the Summit County Health Department.

13-5-11: VESTING OF APPROVALS:

The following table shows in more detail the vesting processes for various types of key planning and zoning approvals and permits (NOTE: Temporary Use Permits do not vest and run with the land):

Table of Vesting of Approvals

	Master Planned Development (MPD)	Development Agreement (DA)	Zoning Change	Conditional Use Permit (CUP) or Low Impact Permit (LIP)
Construction commences within 5 years.	Remains Valid	Remains Valid	As described in the MPD, DA, and Rezone Ordinance.	Expires if construction does not commence within 1 year (unless extension granted).
Construction does not commence within 5 years.	Expires	Expires	Reverts to original (previous) zone per the Code (by Rezone Ordinance).	Expires after 1 year.
Construction is completed per approved plans.	Remains valid if consistent with approval.	Remains valid until expiration date agreed to in DA.	Remains as described in the MPD, DA, and Rezone Ordinance.	Remains valid, "runs with the land."
Changes to project prior to 5-year expiration.	May require new MPD application.	May require amendment to DA.	Remains as described in the MPD, DA, and Rezone Ordinance.	If not expired, may require an additional application.
Changes after 5-year expiration (if nothing constructed).	May require new MPD application.	May require new DA	Subject to original (previous) zoning requirements.	May require a new CUP or LIP, depending on the proposed use.
Changes requested after construction complete and DA expires.	May require new or amended MPD application.	May require new DA, depending on change.	Remains as described in the Rezone Ordinance unless a new Rezone is requested.	May require a new CUP or LIP, depending on the proposed use.

CHAPTER 6 AFFORDABLE HOUSING

SECTION CONTENTS:

- 13-6-1: **Intent**
- 13-6-2: **Methodology and Applicability**
- 13-6-3: **Affordable Housing Requirements**
- 13-6-4: **Affordable Unit Equivalents (AUEs)**
- 13-6-5: **Residential Base Requirement**
- 13-6-6: **Commercial Base Requirement**
- 13-6-7: **Alternatives to On Site Housing**
- 13-6-8: **Mixed Use Base Requirement**
- 13-6-9: **Fees in Lieu**
- 13-6-10: **Accessory Dwelling Units (ADUs)**
- 13-6-11: **Fee Waivers**
- 13-6-12: **Allowable Prices**
- 13-6-13: **Enforcement; Management**
- 13-6-14: **Approval Process**
- 13-6-15: **Waivers**
- 13-6-16: **Administrative Relief**

13-6-1: **INTENT:**

- A. The purposes of this chapter are to:
 - 1. Provide requirements, guidelines, and incentives for the construction of housing affordable to moderate income households in Oakley City;
 - 2. Implement the affordable housing goals, policies, and objectives contained in Oakley City General Plan;
 - 3. Ensure a wide variety of affordable housing options and opportunities for residents, seniors, workers, and special needs individuals in Oakley City;
 - 4. Maintain a balanced community that provides housing for people of all income levels; and
 - 5. Implement planning for affordable housing as required by state code.

13-6-2: **METHODOLOGY AND APPLICABILITY:**

- A. **Affordable Housing Needs:** The City, in conjunction with Mountainlands Community Housing Trust, or another community local housing nonprofit agency shall adopt a needs assessment model to determine the need for affordable

housing, types of housing, special needs, and specific incomes to be targeted in Oakley City. The model shall be utilized to update the needs assessment no less than once every five (5) years, unless requested sooner by the Planning Commission or City Council.

- B. **Base Requirement:** There shall be a base requirement to provide affordable housing as per this chapter throughout all zones of Oakley City. The base requirement shall apply to all new residential, commercial, and mixed-use development, and shall be calculated using affordable unit equivalents (AUEs).

- C. **Exemptions:** The following developments shall not be required to provide additional affordable housing:
 - 1. The construction of accessory dwelling units in or abutting single-family residences.
 - 2. The construction of a single-family residence on an existing lot of record.
 - 3. The expansion of an existing residence.
 - 4. The construction of schools, churches, public facilities, and other institutional uses.
 - 5. A change or expansion of an existing commercial use which is less than a fifteen percent (15%) increase in the existing structure gross square footage or total project square footage, but no greater than five thousand (5,000) square feet; this is a onetime exemption.
 - 6. The first five thousand (5,000) square feet of a new commercial use; this is a onetime exemption.
 - 7. A change or expansion of an existing commercial use which is less than a fifteen percent (15%) increase of the existing total acreage but no greater than two (2) acres, if the use is primarily outdoors; this is a onetime exemption.
 - 8. A change in use which does not increase the employee generation by more than two (2) employees per one thousand (1,000) square feet. See Section 13-6-6 B.
 - 9. A subdivision consisting of eight (8) or less lots; this is a onetime exemption.

D. **Definitions:**

Affordable for Sale Housing: Housing that is priced affordable to households with incomes at or below 80% of AMI.

Affordable Housing Cost: Monthly housing costs that consume no more than 30 percent of a household's income. Housing costs include rent or mortgage, basic utilities, and any Homeowners or Condo Association dues.

Affordable Housing Unit or Housing Unit: Dwelling units that are deed restricted to the housing size and type for individuals meeting occupancy guidelines approved by the Oakley Council.

Affordable Rental Housing: Housing that is priced affordable to households with incomes ranging from 50% to 80% of AMI.

Area Median Income (AMI): The amount of income which divides the income distribution of the area (South Summit School District) into two (2) equal groups, half having income above that amount, and half having income below that amount as determined by the US Department of Housing and Urban Development (HUD) or using methodology as determined by the Oakley City Council.

Attainable Housing: Housing that is priced affordable to households with incomes between 81 and 150 percent of AMI.

Deed Restriction: A contract entered into between Oakley City or a local housing nonprofit agency and the owner or purchaser of real property identifying the conditions for occupancy and resale.

Household: All individuals that are or will be occupying a unit regardless of legal status.

Housing costs: Monthly housing costs that consume no more than 30 percent of a household's income. Housing costs include rent or mortgage, basic utilities, and any Homeowners or Condo Association dues.

Housing Unit: See Affordable Housing Unit.

Household Income: Combined income of all individuals, excluding dependents, who are or will be occupying the unit regardless of legal status. Adjustments to the gross for business expenses can be made for persons who are self-employed.

Median Lot Size: Half of all lots in the development are larger, and half are smaller.

13-6-3: AFFORDABLE HOUSING REQUIREMENTS:

- A. **Affordable Housing Agreement:** All developments containing affordable units shall enter into a development agreement with Oakley City which will contain all aspects and requirements of a binding Housing Agreement. The development

agreement shall be recorded against all parcels and units identified as affordable in the development, and shall include the following:

1. Identification of the units to be deed restricted as affordable housing, including, but not limited to, unit or tax ID number and/or address, square footage, location, and style of unit.
2. A specification of allowed starting sales and/or rental price(s), price increase methodology, target household size and target income range for each unit.
3. Management plan for the affordable units, including the process for buyer qualification to ensure that employees working and living within the South Summit School District boundary are given priority. The management plan shall conform to a template to be provided by Oakley City.
4. A copy of the approved deed restriction or document to assure affordability to be recorded against the individual affordable units.
5. A good faith marketing plan for the units. All sellers or owners of deed restricted affordable units shall engage in good faith marketing efforts each time a deed restricted unit is rented or sold such that members of the public who are qualified to rent or purchase such units have a fair chance of becoming informed of the availability of such units. A public marketing plan shall be submitted by the developer prior to the initial sale or lease of the units.

B. Affordable units shall meet all of the following criteria:

1. **Design to Be Consistent with Character of Neighborhood:** The specific unit type and design shall be consistent with the character of the surrounding neighborhood and/or development. If the development contains both market rate and affordable units, the exterior design, look and feel, and finishes of affordable units shall match the exterior design, look and feel and finishes of market rate units in the development. Interior finishes may differ between affordable and market rate units.
2. **Compliance with Development Standards Required:** Affordable housing units shall comply with all the development standards outlined in this Title and shall comply with the requirements of the underlying zone, with the exceptions outlined in this chapter.
3. **Minimum Size:** The minimum size of an affordable housing unit shall be based on the category of unit, as outlined in section 13-6-4, "Affordable Unit Equivalent (AUEs)", of this chapter.
4. **Concurrent Construction:** The affordable housing component in a development shall be constructed concurrently with the rest of the development. Each phase of a project must contain a proportionate amount of the required affordable housing. This applies to both on-site and off-site housing.

5. **Construction Within Development Site:** The affordable housing component of a development shall be constructed within the development site, except as outlined in this chapter.
6. **Residential Parking:** Residential parking shall meet all the requirements of Section 13-9-22.
7. **Variation of Prices:** The affordable units shall be provided in a variety of prices so that multiple income levels below 80% AMI, as outlined in section 13-6-12 of this chapter, are targeted. No one target income level may make up more than seventy five percent (75%) of the affordable units, except in cases where the total number of affordable units provided is ten (10) or fewer, or where the land use authority determines that a different unit mix is compatible with the proposed development, or where all units are approved to be located in a single structure.
8. **Variation of Sizes and Styles:** The affordable units shall be provided in a variety of sizes and styles, as outlined in subsection 13-6-4C of this chapter. No one size or style of unit may make up more than seventy five percent (75%) of the affordable units, except in cases where the total number of affordable units provided is ten (10) or fewer, or where the land use authority determines that a different unit mix is compatible with the proposed development, or where all units are approved to be located in a single structure.
9. **Compatibility:** To allow for the structures to be compatible with market homes within the subdivision and the existing neighborhoods, the homes constructed can be multi-family to avoid having smaller homes within a larger home community. Such multi-family structures shall contain no more than three (3) units per structure and shall be designed in such a manner that they appear to be one detached single-family home consistent with the adjacent larger homes. Multi-family structures shall be subject to all permitting requirements in chapter 3 of this Title.
10. **Minimum Length of Time:** The minimum length of time for a unit to be deed restricted as an affordable unit shall be sixty (60) years as measured from issuance of certificate of occupancy, which may be renewed at the City's option for additional terms in increments of ten (10) years.
11. **Rentals:** On projects where rentals are approved by the City, all deed restricted rental units shall be rented for a minimum period of ninety (90) consecutive days. Nightly and weekly rentals shall be prohibited.
 - a. **Exception:** Special needs emergency/transitional/athlete/employee housing shall be exempt from the ninety (90) day limitation, but shall be rented for a sufficient period to prevent nightly and weekly rentals. To qualify for the exemption, there must be a quantified, demonstrated need for the emergency/transitional/athlete/employee housing within the City boundaries, and the housing must be developed in collaboration

with a City approved organization. The housing must satisfy all other requirements of this chapter.

12. **For Sale Units:** The maximum initial sales price or rent of an affordable unit shall be limited to a price that is affordable to Moderate Income Households, and to any specific AMI targets as outlined in the development agreement approval for Oakley City each year, and annual appreciation shall be limited through a deed restriction to ensure that the unit remains affordable over time. Notwithstanding this provision, the deed restrictions may provide for sales or rental to higher income households in the event the unit is not sold or rented within a reasonable time.
13. **Net Income Limitations:** In addition to the net income limit, qualifying households are limited to a net worth of four (4) times the AMI.
14. **Master Leases:** A qualified nonprofit organization, or employer desiring to provide qualifying employees with affordable housing, may purchase or lease existing affordable units when a master lease program is approved by the City, whereby the nonprofit organization or employer will rent or lease the units to qualifying employee households. A management plan shall be approved by Oakley City and recorded against the affordable units as part of, or an amendment to, a housing agreement.
15. **Housing Availability:** In an effort to ensure that the affordable housing is available for qualified individuals:
 - a. All renters of affordable units will be required to certify annually to the City, or its designee, that they still qualify for the targeted percentage of AMI. At the City's discretion, tenants current income will be allowed to increase up to 1.5 times above the initial limit to account for raises or promotions, etc. If a renter no longer qualifies for the housing, their lease will not be renewed and the property will then be made available to a qualifying renter.
 - b. If a for sale unit owner's household's income increases to an amount above the targeted percentage of AMI while occupying an affordable unit, the household shall not be required to sell the unit. Upon vacating the premises naturally, a for sale unit shall be sold pursuant to the terms of the deed restriction.
16. **Priority in Obtaining Units:** Households currently living or working in Oakley City shall have priority in obtaining affordable units, through a selection process determined by the City Council, subject to compliance with federal and state fair housing requirements. If there is not an immediate need of an Oakley household, priority will then go to a household in the South Summit School District boundaries. The next availability layer would then progress to households in the region of Eastern Summit County.

17. **Deed Restriction Approval:** A deed restriction shall be approved by the City and recorded on all affordable dwelling units. A template restriction approved by the City Council shall be used for all new affordable units, unless substitute restrictions setting forth substantially the same information are provided by a community-oriented housing nonprofit group for units they develop, and if the substitute restriction is approved by the City Council. Such substitute restrictions may include the use of a community land trust or management by a local housing nonprofit to ensure long term control and stewardship. The deed restriction templates shall be reviewed periodically, and shall at a minimum outline the following:
 - a. Income and net worth qualification,
 - b. Term of applicability,
 - c. Assignable City right of first refusal,
 - d. Allowable capital improvements,
 - e. Maintenance,
 - f. Occupancy requirements,
 - g. Rental and sales policies,
 - h. Starting sales and rental prices,
 - i. Allowable annual price increase,
 - j. Reporting and monitoring structures,
 - k. Management,
 - l. Enforcement provisions.
18. **Modification of Restrictions:** These restrictions may be modified to satisfy state and/or federal requirements, if a project receives state and/or federal funding that requires modifications.
19. **Certification:** All for sale and rental affordable units shall be certified at the time of establishment by an independent qualified evaluator, at a minimum, Energy Star or its equivalent energy efficient certification.

13-6-4: AFFORDABLE UNIT EQUIVALENTS (AUEs):

- A. **Affordable Unit Equivalents (AUEs):** All new development, not exempt from this chapter shall be required to provide a certain number of affordable unit equivalents (AUEs), as outlined in this chapter. To encourage the provision of smaller more affordable units, the cumulative total square footage required decreases for smaller units and increases for larger units.
- B. **AUE Defined:** "AUE" is defined as a "two (2) bedroom unit with nine hundred (900) square feet of net livable space, measured exterior wall to exterior wall". Multiple smaller units together may constitute one AUE, or fewer larger units, according to the conversion in subsection C of this section.

C. **AUE Conversions:**

1. **Dormitory unit:**

- a. Minimum size = 150 square feet per bed
- b. 1 AUE = 5 beds (1 bed = 0.2 AUE)
- c. Example: 8 AUEs = 40 beds
 - (1) $8 \times 5 = 40$, or
 - (2) $8 \div 0.2 = 40$

2. **Single room occupancy (SRO) unit:**

- a. Minimum unit size = 275 square feet
- b. 1 AUE = 2.75 units (1 unit = 0.3636 AUE)
- c. Example: 8 AUEs = 22 units
 - (1) $8 \times 2.75 = 22$, or
 - (2) $8 \div 0.36 = 22$

3. **Studio unit:**

- a. Minimum unit size = 400 square feet
- b. 1 AUE = 2.0 units (1 unit = 0.5 AUE)
- c. Example: 8 AUEs = 16 units
 - (1) $8 \times 2.0 = 16$, or
 - (2) $8 \div 0.5 = 16$

4. **One-bedroom unit:**

- a. Minimum unit size = 650 square feet
- b. 1 AUE = 1.25 unit (1 unit = 0.8 AUE)
- c. Example: 8 AUEs = 10 units
 - (1) $8 \times 1.25 = 10$, or
 - (2) $8 \div 0.8 = 10$

5. **Two (2) bedroom unit:**

- a. Minimum unit size = 900 square feet
- b. 1 AUE = 1 unit
- c. Example: 8 AUEs = 8 units
 - (1) $8 \times 1 = 8$, or
 - (2) $8 \div 1 = 8$

6. **Three (3) bedroom unit:**

- a. Minimum unit size = 1,150 square feet
- b. 1 AUE = 0.80 unit (1 unit = 1.25 AUEs)
- c. Example: 8 AUEs = 6.4 units
 - (1) $8 \times 0.80 = 6.4$, or
 - (2) $8 \div 1.25 = 6.4$

7. **Four (4) bedroom unit:**

- a. Minimum unit size = 1,400 square feet
- b. 1 AUE = 0.70 unit (1 unit = 1.43 AUEs)
- c. Example: 8 AUEs = 5.6 units

(1) $8 \times 0.70 = 5.6$, or

(2) $8 \div 1.43 = 5.6$

D. AUE Application:

1. Dormitory and SRO units shall only be permitted to meet the requirement for commercial and resort uses, and shall not be permitted in single-family residential neighborhoods.
2. If units are provided that are larger than the minimum size outlined in subsection C of this section, the number of units per AUE may be reduced, but:
 - a. In no case may the reduction exceed a total of ten percent (10%) of the obligated AUEs for a development, and
 - b. In no case may the credit per unit exceed one hundred fifty (150) square feet per dormitory unit, SRO, studio, or one-bedroom unit, and
 - c. For multiple bedroom units, in no case may the additional square footage credited toward the AUEs exceed one hundred fifty (150) square feet multiplied by the number of bedrooms.

E. Fractional Obligation: If the total number of required AUEs contains a decimal, and the units provided do not account for the entire decimal, then the developer shall pay a fee in lieu for the remaining fractional obligation only. In no case shall the number of AUEs provided be less than the whole number portion of the obligation.

1. **Example:** If a developer has an obligation of 13.4 AUEs, and 13.2 AUEs are provided, a fee in lieu shall be paid for the 0.2 remainder, as outlined in section 13-6-9 of this chapter. In this case the number of AUEs provided may not be less than thirteen (13), the whole number portion of the obligation.

F. Reductions in Requirement: Developers may be granted the option of only one of the following reductions:

1. If a developer provides all the required affordable housing up front (prior to the first certificate of occupancy for the market portion of the development), the number of required AUEs may be reduced by up to twenty five percent (25%) at the discretion of the land use authority.
2. If a developer provides the required affordable housing in such a manner that the average household income targeted does not exceed fifty percent (50%) of the area median income (AMI), the number of required AUEs shall be reduced by twenty five percent (25%).
3. If a developer provides the required affordable housing in such a manner that the average household income targeted does not exceed forty percent (40%) of the area median income (AMI), the number of required AUEs shall be reduced by forty percent (40%).

4. If a developer provides the required affordable housing in such a manner that the average household income targeted does not exceed thirty percent (30%) of the area median income (AMI), the number of required AUEs shall be reduced by fifty percent (50%).

13-6-5: RESIDENTIAL BASE REQUIREMENT:

- A. **Obligation Rate:** All new residential development subject to this chapter shall be required to develop or ensure the development of affordable housing at a rate as determined by a local Affordable Housing Needs or Nexus study. Such studies shall be done periodically to update the housing obligations of the Oakley City area or region. Using the most recent Affordable Housing Nexus Study prepared by Mountainlands Community Housing Trust in 2018, the housing demand for households that earn up to 80% of the AMI (Median Income) as a percent of market rate development for the Eastern Summit County area was 14.9 percent. This number is initially rounded up to fifteen percent (15%) for ease of calculation of the units in a proposed development (the future obligation rate shall be determined in the most recent approved Affordable Housing Needs or Nexus study). The required percent of affordable housing obligation shall be met concurrently with the construction of market rate units. The residential exemption of the first eight (8) lots is a onetime exemption and applies only to the first phase of multi-phase subdivisions.
 1. **Calculation of Required AUEs:** The total number of allowed market rate units shall be multiplied by the current approved obligation rate (initially set at 15%). The resulting number shall represent the total number of AUEs required of the project, shall be provided in addition to the allowed market rate units in the project, and shall not count against the allowed density of the project.
 2. **Expansion:** When existing development applies for additional units, the obligation rates shall be calculated on the net unit increase only.
- B. **Example:** Example calculation for residential development requirement:
Number of allowed market units in example development = 23
Assessable Base = 23 – (8 lot exemption) = 15 units
Obligation rate = 15 x 15% = 2.25
Total AUEs required = 2.25
Total units permitted: 23 market + 2.25 affordable = 25.25 units
Result: 25 units, fee in lieu for 0.25
- C. **Development of For Sale Lots:** In projects developing for sale lots subject to this chapter, where the developer does not construct units on the lots but requires the purchaser to do so, the developer shall be required to create lots for the development of affordable housing at a rate of fifteen percent (15%) of the total approved market rate lots in the development.

1. The affordable lots may be donated to City approved organization for the development of affordable housing on the lots. Utilities, curb and gutter, water shares and/or rights, and other necessary improvements shall be completed and provided by the developer so that an approved housing nonprofit organization receives a construction ready lot free and clear of all encumbrances. All required fees, such as special service fees, water shares and/or rights, impact fees but excepting building and planning fees, shall be paid by the developer of the project prior to donation of the lots, unless otherwise agreed to in writing by a nonprofit organization.
2. The smallest affordable lot shall be no smaller than fifty percent (50%) of the size of the median market rate lot in the development.
3. The affordable lots and units shall be located throughout the development and not clustered into the development. The land use authority shall have the discretion to modify this provision if they find that the development of affordable housing and the overall project will be enhanced by the non-integration of the affordable units based upon the design of the project, the type and size of the affordable housing provided and the character of the surrounding neighborhood.

13-6-6: COMMERCIAL BASE REQUIREMENT:

- A. **Obligation Rate:** For new commercial development subject to this chapter, or expansion of existing commercial development, an applicant shall be required to develop or ensure the development of affordable housing to meet fifteen percent (15%) of the employee housing demand generated by the new development (future obligation rates shall be determined in the most recent approved Affordable Housing Needs or Nexus study).
- B. **Employee Generation:** "Average employee generation", defined as full time equivalents (FTEs, 2,080 hours) per one thousand (1,000) net leasable square feet, (as detailed in the 2018 Affordable Housing Nexus Study for Summit County area) is established as follows:

EMPLOYEE GENERATION BY TYPE OF USE

Types of Use	FTEs
Professional Office	2.6
Medical Office	4.4
Restaurant	3.3
Retail	1.8
Hotel (employees per room)	0.5 per room
Manufacturing	0.0

- C. **Independent Calculation:** If the applicant can make a persuasive argument as to why the City's adopted calculation is not relevant or does not apply, an applicant may submit an independent calculation of the number of employees to be generated by a proposed development, to be used in place of the employee generation table, subject to the following requirements:
1. The City shall create a pool of approved entities, persons, or groups to conduct independent calculations. The pool shall be chosen from on a strictly rotational basis; each subsequent application requesting an independent calculation shall be assigned to the next entity, person, or group on the approved list.
 2. The land use authority shall make the final determination of whether or not the calculation constitutes compelling evidence of a more accurate calculation of employee generation than the "Employee Generation by Type of Use" table of this section.
 3. Should the independent calculation not be accepted, then the applicable generation factor from the employee generation table shall be applied to the proposed development.
 4. Any acceptance of an independent calculation shall be site and use specific, nontransferable, and be memorialized in the housing agreement for the property, which shall be executed prior to the issuance of any building or development permits.
- D. **Calculation of Required AUE(s):** Required AUEs for commercial development shall be calculated using the following formula:
- Formula:**
- $$(\text{Employee generation} \times \text{square footage}) \div 1,000 = \text{employees generated}$$
- $$(\text{Employees generated} \times \text{obligation rate of 15\%}) = \# \text{ of employees to mitigate}$$
- $$(\text{Employees to mitigate} \div 1.5 \text{ workers per household} \div 1.2 \text{ jobs per employee}) = \text{AUE obligation}$$
- E. **Example Calculation for Commercial Development Requirement:**
- Example: Retail development application for a 30,000 square foot project:
 First 5,000 square feet are exempt; calculation done on 25,000 square feet
 Employee generation, general category: $(1.8 \times 25,000) \div 1,000 = 45$ employees generated
- Mitigation:
 45 employees multiplied by 0.15 (mitigation rate) = 6.8 employees
 6.8 divided by 1.5 (workers per household) = 4.5 employees
 4.5 divided by 1.2 (jobs per worker) = 3.75 AUEs

13-6-7: ALTERNATIVES TO ON SITE HOUSING:

- A. Subject to City Council review and approval, which may be based upon the determination of a realistic hardship, development may meet their AUE obligation in one of the following ways:
1. Construct on-site affordable units.
 2. Construct off-site affordable units as outlined below:
 - a. Prior to obtaining approval for the market site, a suitable alternate site for affordable housing, along with a conceptual site plan and unit layout for the alternate site, shall be presented by the applicant and approved by the City.
 - b. Prior to commencement of improvements of the market site, a draw down bond with a minimum two (2) year term shall be posted in the amount equal to the fee in lieu of the required AUEs.
 - (1) In the event the required unit equivalents are not completed with a certificate of occupancy, or if substantial progress satisfactory to the City Council has not occurred within two (2) years, the City Council shall have the right to draw upon the bond, in which case all funds deposited shall be forfeited by the developer to the City.
 - c. Prior to receiving a certificate of occupancy for any portion of the market site, a development plan, site plan, final plat if required, elevations, deed restriction, housing agreement, and timeline of construction for the affordable units shall be approved, and recorded where required, by the City.
 - d. The off-site housing shall be constructed within two (2) years of the market development.
 3. Pay a fee in lieu as outlined in this chapter.
 4. Purchase existing unit(s) at market rate, record a City approved deed restriction on the unit(s), and sell the unit(s) to qualifying household(s) at an affordable price. The existing units shall be subject to the size and income requirements of this chapter.
 5. Donate land of sufficient size to accommodate the number of required AUEs to the City or its designee.
 - a. Examples of City designees may include qualifying community based housing nonprofits such as Habitat For Humanity, Mountainlands Community Housing Trust, religious organizations, and Peace House. The recipient shall provide written acceptance setting forth the terms and conditions of the acceptance of the proposed donation to the City.
 - b. Utilities, curb and gutter, water shares and/or rights, and other necessary improvements shall be completed and provided by the developer so that an approved housing nonprofit organization

receives a construction ready lot free and clear of all encumbrances. All required fees, such as special service fees, water shares and/or rights, impact fees but excepting building and planning fees, shall be paid by the developer of the project prior to the donation of the lots, unless otherwise agreed to in writing by the nonprofit organization.

- c. The developer's obligation is deemed fully satisfied when the units are actually created, not by the land donation.
- 6. Transfer the development rights under a TDR agreement to another current or future development project in the City.

13-6-8: MIXED USE BASE REQUIREMENT:

Mixed Use Development Requirements: The obligation rate for the residential portion of the development shall be determined using the residential development requirements, and the obligation rate for the commercial portion of the development shall be determined using the commercial development requirements. The total required AUEs shall be the sum of the residential obligation and the commercial obligation.

13-6-9: FEES IN LIEU:

- A. **Applicability:** Fees in lieu will be allowed sparingly to meet any AUE obligation, but only if specifically approved of the Planning Commission and City Council.
- B. **Fee Amount:** If the City, in its sole discretion determines that (1) no other alternative is feasible, or (2) such a payment would result in more immediate development of housing, or (3) such a payment would leverage additional resources, then a Payment of Fees in Lieu of Development may be accepted. The collected funds may only be expended for projects located within the limits of Oakley City or within the South Summit School District boundary if more feasible. The In Lieu Fee shall be based on actual documented costs of construction in the prior year. The actual building cost per square foot is then multiplied by 900 square feet to arrive at the cost for an equivalent AUE. Updates may occur more frequently at the request of the City Council to reflect changing real estate conditions. Any Fees in Lieu collected, and any interest accrued shall be used only for the purpose of planning for, subsidizing, or developing affordable housing.
- C. **Payment of Fees:** All fees in lieu shall be placed in a separate City account designated for affordable housing purposes only; or in the alternative, fees may instead be paid directly to an approved housing nonprofit upon approval by the appropriate land use authority.

- D. **Use of Fees:** Use of the funds shall be approved on a case-by-case basis by the City Council. Some examples of permitted uses may include, but shall not be limited to, the following:
1. To provide down payment and mortgage assistance to qualifying households.
 2. To provide fee assistance for Oakley City impact fees, specifically for affordable housing units.
 3. To buy down the price of affordable units that have naturally appreciated so as to become unaffordable to a qualifying household.
 4. To assist qualifying community-based housing nonprofit organizations in their affordable housing endeavors.
 5. To assist in the construction of affordable housing on City owned property.
 6. To purchase and/or rehabilitate existing properties in Oakley City that are available at below market rate prices.
 7. To preserve existing affordable units by purchasing mortgages or units to protect them from foreclosure.
 8. To provide funds to take advantage of potential opportunities that will enhance the objectives of this chapter.

13-6-10: ACCESSORY DWELLING UNITS (ADUs):

Purpose: ADUs may provide a good source of seasonal affordable housing, as well as year-round affordable rental units and meet the requirements of this chapter, provided they are developed concurrently with the project. Requirements for ADUs are found in 13-9-5 of this Title. Unless deed restricted, made available to rent on a permanent basis, and placed under the management of the City or its designee, ADUs will not count toward the AUE obligation as they are considered part of a single-family dwelling.

13-6-11: FEE WAIVERS:

- A. **Applicability:** Affordable units may be eligible for waivers of building department and planning department application and permit fees. The waivers shall apply only to affordable units and/or lots and shall not apply to market rate units and/or lots in a development containing affordable units.
- B. **Schedule:** Affordable units may be granted waivers as outlined below, up to the full amount of fees actually applied:
1. A waiver of up to fifty percent (50%) of the fees for each unit targeting households at fifty percent (50%) of the area median income (AMI).

2. A waiver of up to seventy five percent (75%) of the fees for each unit targeting households at forty percent (40%) of the area median income (AMI).
 3. A waiver of up to one hundred percent (100%) of the fees for each unit targeting households at thirty percent (30%) of the area median income (AMI).
- C. **Process:** Prior to construction an applicant shall submit an application to the appropriate City department, containing the following:
1. A site plan showing the total number of units in the development and identifying the affordable units.
 2. A summary outlining the sales and/or rental prices of each individual affordable unit.
 3. Nonprofit developers shall be granted a waiver of any waived fees up front.
 4. For profit developers shall post a cash bond, post a surety bond, or provide an irrevocable letter of credit for all required fees; any waived amount shall be released to the developer upon project completion, and un-waived fees paid to the appropriate department.
 5. The final decision concerning the approval of fee waiver applications shall be made by the City Council.

13-6-12: ALLOWABLE PRICES:

- A. **Prices:** The rent and sales prices of affordable units shall be based upon the presumed size of the household occupying the unit. By City policy, the allowable price shall be calculated based upon the monthly income of qualifying households.
1. **For Sale Units:** The allowable sales price shall be calculated so that the sum of the monthly mortgage payment, plus mortgage insurance, property taxes, and HOA dues does not exceed thirty percent (30%) of a household's gross monthly income, and based upon the following assumptions:
 - a. An available fixed rate thirty (30) year mortgage, consistent with the first-time homebuyer rate offered by the Utah Housing Corporation, plus fifty (50) basis points. A lower rate may be used in calculating affordable prices if the developer can guarantee the availability of a fixed rate, thirty (30) year mortgage at this lower rate for all of the inclusionary units.
 - b. A down payment of no more than five percent (5%) of the purchase price.
 - c. A calculation of property taxes, and
 - d. A calculation of homeowners' insurance and/or homeowners' association fees. Homeowners' association (HOA) fees shall be no

more than the HOA fee for market rate units and shall be the lesser of the actual HOA fee or an annual amount equal to one percent (1%) of the allowable price as adjusted annually based upon the permitted increases in the allowable price as set forth in the deed restrictions. This limitation of HOA fees shall be set forth in the recorded deed restrictions.

2. **For Rent Units:** The allowable rental price shall be calculated so that the monthly rent, plus utilities, does not exceed thirty percent (30%) of a presumed household's gross monthly income.

13-6-13: ENFORCEMENT; MANAGEMENT:

The City or its designee shall have the authority and responsibility to enforce compliance with the requirements outlined in this chapter. The provisions of this chapter shall apply to all agents, successors, and assigns of an applicant. No building permit or certificate of occupancy shall be issued, nor development approval be granted, which does not meet the requirements of this chapter. In the event it is determined that rents or sales prices in excess of those allowed by this chapter have been charged to a renter or buyer of an affordable unit, the City or its designee shall take appropriate legal action to correct the situation.

13-6-14: APPROVAL PROCESS:

Each project shall comply with the applicable development application procedure and approval processes outlined in this Title.

13-6-15: WAIVERS:

The City Council may waive all or part of the requirements of this Chapter in exchange for enhanced project affordability or livability including but not limited to the incorporation of sustainable building practices and systems in the unit design and development.

13-6-16: ADMINISTRATIVE RELIEF:

The City Council may waive all or part of the requirements of this Chapter where the applicant can establish by clear and convincing financial data and other evidence relating to the character of the development or surroundings that the imposition of the requirements set forth in this Chapter shall create an economic hardship. The Council shall use the same standards that it applies to any other projects or properties in making a determination of economic hardship. A waiver under this section shall be granted only to the extent necessary to relieve the hardship or difficulty that serves as the basis for the requested waiver and shall not be considered precedent for future requests for administrative relief.

CHAPTER 7 INSTALLATION AND GUARANTEE OF DEVELOPMENT IMPROVEMENTS

SECTION CONTENTS:

- 13-7-1: **Construction Plans**
- 13-7-2: **Required Development Improvements and Improvement Agreement**
- 13-7-3: **Phasing**
- 13-7-4: **Financing**
- 13-7-5: **Warranty**
- 13-7-6: **Maintenance**
- 13-7-7: **Revocation**
- 13-7-8: **Improvement Agreement and Guarantee Of Completion**
- 13-7-9: **Failure to Complete Required Development Improvements**
- 13-7-10: **Temporary Improvements**
- 13-7-11: **Acceptance of Dedication Offers**
- 13-7-12: **Inspection of Required Development Improvements**

13-7-1: **CONSTRUCTION PLANS:**

- A. **Required; Scale:** Construction plans shall be prepared for all required improvements and submitted to the City Planner. Plans shall be drawn at a scale of no more than one inch equals fifty feet (1" = 50'), and map sheets shall be of the same size as the plat. The following shall be shown:
 - 1. Profiles showing existing and proposed elevations along centerlines of all roads. Where a proposed road intersects an existing road or roads, the elevation along the centerline of the existing road or roads within one hundred feet (100') of the intersection shall be shown. Approximate radii of all curves, lengths of tangents, and central angles of all roads shall be shown.
 - 2. The City Planner or City Engineer may require, where steep slopes exist, that cross sections of all proposed roads be provided at one-hundred-foot (100') stations. The cross sections shall extend at right angles from the centerline to twenty-five feet (25') beyond the catch point of the cut or fill slope. The cross section shall indicate the location of the property lines (right of way lines).
 - 3. Plans and profiles showing the locations and typical cross section of road pavements, including curbs and gutters, sidewalks, trails, drainage easements, servitudes, rights of way, manholes, and catch basins; the location of road trees, road lighting standards, and road signs; the

location, size, and invert elevations of existing and proposed sanitary sewers, stormwater drains, and fire hydrants, showing connection to any existing or proposed utility systems; and exact location and size of all water, gas, or other underground utilities or structures.

4. Location, size, elevation and other appropriate descriptions of any existing facilities or utilities, including, but not limited to, existing roads, sewers, drains, water mains, easements, water bodies, streams, and other pertinent features such as swamps, railroads, buildings, features noted on the general plan at the point of connection to proposed facilities and utilities within the subdivision, and each tree with a diameter of two inches (2") or more, measured twelve inches (12") above ground level. The water elevations of adjoining lakes or streams at the date of the survey, and the approximate high and low water elevations of such lakes or streams. All elevations shall be referred to the USGS datum plane. If the subdivision borders a lake, river or stream, the distances and bearings of a meander line established not less than twenty feet (20') back from the ordinary high-water mark of such waterways.
5. Topography at the same scale as the sketch plan with contour intervals of two feet (2'), referred to sea level datum. All datum provided shall be the latest applicable U.S. coast and geodetic survey datum and should be so noted on the plat.
6. All specifications and references required by the City construction standards and specifications, including a site grading plan for the entire subdivision.
7. Notation of approval as follows:

Owner	Date
-------	------

Oakley City Mayor	Date
-------------------	------

8. Title, name, address and signature of professional engineer and surveyor, and revision dates.

B. Construction Plan Review:

1. **General Application Requirement:** Construction plans shall be prepared by or under the supervision of a professional engineer or architect registered in the state as required by state law governing such professions. Plans submitted for review by the City shall be dated and bear the responsible engineer's or architect's name, registration number and the designation of "professional engineer", "PE" or "architect", and an appropriate stamp or statement identifying that the documents are for preliminary review and are not intended for construction. Final plans acceptable to the City shall bear the seal and signature of the engineer or architect and the date signed on all sheets of the plans. Public

improvements in roads, alleys, rights of way or easements shall be designed by a professional engineer registered in the state.

2. **Construction Plan Review Procedure:** Copies of the construction plans, and the required number of copies of the plat or site plan shall be submitted to the City Planner and City Engineer for final approval prior to submittal of a final plat or site plan. The plans shall contain all necessary information for construction of the project, and other special features. Each sheet of the plans shall contain a title block, including space for the notation of revisions. This space is to be completed with each revision to the plan sheet and shall clearly note the nature of the revision and the date the revision was made. The City engineer will release the plans for construction, subject to approval of the final plat or site plan by the City Planner and payment of all necessary fees. Upon such release, each contractor shall maintain one set of plans, stamped and signed by the county, on the project at all times during construction.
3. **Preconstruction Conference:** The City engineer may require that all contractors participating in the construction shall meet for a preconstruction conference to discuss the project prior to beginning work.
4. **Conditions Prior To Authorization:** Prior to authorizing construction, the City Engineer shall be satisfied that the following conditions have been met:
 - a. The subdivision plat or site plan shall have been approved as required in this Title.
 - b. All required contract documents shall be completed and filed with the City Engineer.
 - c. All necessary off-site easements or dedications required for public facilities not shown on the final plat or site plan must be conveyed solely to the City, or other agency approved by the City, with proper signatures affixed. The original of the documents, and filing fees as determined by the City Planner, shall be delivered to the City Engineer prior to approval and release of the construction documents.
 - d. All contractors participating in the construction shall be presented with a set of approved plans bearing the stamp of release of the City Engineer. These plans shall remain on the job site at all times.
 - e. A complete list of the contractors, their representatives on the site, and telephone numbers where a responsible party may be reached at all times must be submitted to the City Engineer.
 - f. All applicable fees must be paid to the City.

13-7-2: REQUIRED DEVELOPMENT IMPROVEMENTS AND IMPROVEMENT AGREEMENT:

Where applicable, the following improvements and related items shall be constructed or provided and guaranteed by the applicant, in a form and amount satisfactory to the City, as a condition of final subdivision plat or final site plan approval. The installation of required development improvements shall be at the applicant's expense.

- A. Temporary and permanent, structural and nonstructural soil conservation measures, and revegetation plantings;
- B. Temporary and permanent, structural and nonstructural runoff control measures;
- C. Structural or nonstructural measures intended to mitigate soils or slope limitations or geologic or avalanche hazards;
- D. Buffering, screening and landscaping;
- E. Utilities, including water and wastewater service;
- F. Roads or road improvements, both public and private;
- G. School bus turnaround, shelters and related features;
- H. Required street and intersection lighting;
- I. All road identification and traffic control devices;
- J. Curbing and gutters, and sidewalks, if required by the City Planning Commission;
- K. Transportation and recreation trails;
- L. Parking and loading areas;
- M. Recreational facilities, including parks and/or other amenities represented by the applicant; and
- N. All community benefits proposed by the applicant in exchange for density incentives through an approved MPD plan.

13-7-3: PHASING:

For site plan improvements, installation may be phased in accord with an approved phasing plan submitted with the application for a building permit and approved by the City. In subdivisions, a separate final plat or site plan shall be filed on each phase of the development.

13-7-4: FINANCING:

Installation of the improvements required in a development or development phase may be guaranteed by: A. Installation of all required and represented improvements with an approved improvement agreement, as provided in section 13-7-8 of this chapter, prior to the City signing and filing of a final plat or final site plan; or B. Provision of security for installation of improvements as provided in section 13-7-8 of this chapter.

13-7-5: WARRANTY:

All improvements shall be warranted by the applicant for one (1) full year of normal operation after the formal acceptance of the improvement by the City. The City shall either retain ten percent (10%) of the bond or escrow total or require a bond or escrow equal to ten percent (10%) of the required total improvement costs until twelve (12) months from the date of completion of the improvements and acceptance thereof by the City as a warranty should the improvements prove to be defective during said twelve (12) month period.

13-7-6: MAINTENANCE:

The maintenance of all required improvements shall be assigned to an appropriate public entity (such as the City or other relevant service provider) or private (such as a homeowners' association) entity in a dedication, contract, covenant or other agreement. Such agreement shall be accepted by the City Council and the City attorney as sufficient to assure perpetual maintenance of the improvements.

13-7-7: REVOCATION:

Failure to properly install, warrant or maintain all required improvements shall result in the suspension or revocation of a development permit or certificate of occupancy.

13-7-8: IMPROVEMENT AGREEMENT AND GUARANTEE OF COMPLETION:

- A. **Improvement Agreement:** The property owner shall enter into an improvement agreement incorporating approved development plans and by which the owner covenants to complete all required development improvements no later than twenty-four (24) months following the date upon which the final plat or site plan is approved. This two (2) year deadline may be extended by the City Council upon showing of sufficient cause, but no additional phase of the development shall be permitted during such an extension. The improvement agreement shall be approved by the City Council and City Engineer. The City Council may also require the property owner to complete and dedicate some required public improvements prior to approval of the final plat or final site plan and to enter into an improvement agreement for completion of the remainder of the required improvements during such period. The improvement agreement shall contain such other terms and conditions as are agreed to by the property owner and City.
- B. **Covenants to Run with The Land:** The improvement agreement shall provide that the covenants contained therein shall run with the land and bind all successors, heirs and assigns of the property owner. The improvement agreement shall be recorded in the office of the county recorder and on file with

the City. All existing lien holders shall be required to subordinate their liens to the covenants contained in the improvement agreement.

- C. **Security:** Whenever the City permits a property owner to enter into an improvement agreement after approval of a final plat or site plan, it shall require the owner to provide sufficient security to ensure completion of the required development improvements. The security shall be in the form of either:
1. **Letter of Credit:** A letter of credit, in the amount of one hundred ten percent (110%) of the estimated cost of improvements, drawn upon a state or national bank. Said letter of credit shall: a) be irrevocable; b) be of a term sufficient to cover the completion, plus sixty (60) days, and warranty periods; and c) require only that the City present the issuer with a signed draft and a certificate signed by an authorized representative of the City certifying to the City's right to draw funds under the letter of credit; or
 2. **Escrow Account:** Establishment of a cash escrow account in the amount of one hundred ten percent (110%) of the estimated cost of the improvements. The terms of the escrow account shall only require that the City present the agent with a signed draft and a certificate signed by an authorized representative of the City certifying to the City's right to draw funds on the account to complete the required improvements. Acceptable escrow agents shall be the banks or savings institutions which are federally insured.
 3. **Performance or Subdivision Bond:** A bond in the amount of one hundred ten percent (110%) of the estimated cost of the improvements shall be submitted. The underwriting limitation is stated in the United States department of treasury circular 570, "Surety Companies Acceptable on Federal Bonds". Only companies listed in the department of treasury circular 570 are acceptable.
 4. **Release of Security:** As portions of the required development improvements are completed in accordance with the improvement agreement, City regulations and the approved development plans, the developer may make application to the City to reduce the amount of the original letter of credit or cash escrow. If the City is satisfied that such portion of the improvements has been completed in accordance with City standards, they may cause the amount of the letter of credit or cash escrow to be reduced by such amount that they deem appropriate, so that the remaining amount of the letter of credit or cash escrow adequately insures the completion of the remaining required development improvements.
 5. **Governmental Units:** Governmental units to which these contract and security provisions apply may file, in lieu of the security, a certified resolution or ordinance from officers or agencies authorized to act in their behalf, agreeing to comply with the provisions of this chapter.

13-7-9: FAILURE TO COMPLETE REQUIRED DEVELOPMENT IMPROVEMENTS:

For plats or site plans for which no improvement agreement has been executed and no security has been posted, if the required development improvements are not completed within the period specified by the City, the final plat or site plan approval shall be deemed to have lapsed and shall be null and void, and further proceedings on the plat or site plan shall terminate. In those cases where an improvement agreement has been executed and security has been posted and required public improvements have not been installed within the terms of the agreement, the City may:

- A. Declare the agreement to be in default and require that all the required development improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default;
- B. Obtain funds under the security and complete the required development improvements itself or through a third party;
- C. Assign its right to receive funds under the security to any third party, including a subsequent owner of the subdivision for which required development improvements were not constructed, in whole or in part, in exchange for that subsequent owner's promise to complete the public improvements on the tract;
or
- D. Exercise any other rights available under the law.

13-7-10: TEMPORARY IMPROVEMENTS:

The property owner shall build and pay for all costs of temporary improvements required by the City and shall maintain those temporary improvements for the period specified by the City. Prior to construction of any temporary facility or improvement, the owner shall file with the City a separate improvement agreement and escrow, or, where authorized, letter of credit, in an appropriate amount equal to one hundred ten percent (110%) of the estimated cost of installation and removal of such temporary facilities, which agreement and escrow or letter of credit shall ensure that the temporary facilities will be properly constructed, maintained and removed.

13-7-11: ACCEPTANCE OF DEDICATION OFFERS:

Acceptance of formal offers of dedication of roads, public areas, easements and parks shall be by application to the City and the City Engineer and approval of the City Council by ordinance following a recommendation by the City Planner or designated planning staff member and City Engineer. The approval by the City of a plat or site plan, whether preliminary or final, shall not of itself be deemed to constitute or imply the acceptance by the City of any road, easement or park shown on the plat or site plan.

13-7-12: INSPECTION OF REQUIRED DEVELOPMENT IMPROVEMENTS:

- A. **General Procedure:** The property owner shall be responsible for providing all construction engineering and surveying, materials testing and construction administration. The construction inspection provided by the property owner shall be supervised by the engineer of record and the City Engineer. Construction shall be in accordance with the approved plans, standard specifications and standard details of the City (City design and construction standards are provided under separate cover). Any change in design shall be approved by the City Engineer. If the City Engineer finds upon inspection that any of the required public improvements have not been constructed in accordance with the City construction standards and specifications, the property owner shall be responsible for completing and/or correcting the public improvements.

- B. **Certificate of Satisfactory Completion:** The City will not accept dedication of required development improvements until the applicant's engineer of record or surveyor has certified to the City Engineer, through submission of a detailed as built survey plat of the property, the location, dimensions, materials and other information required by the City Engineer. The as built shall also include a complete set of drawings of the paving, drainage, water, sanitary sewer, or other required development improvements, showing that the layout of the line and grade of all public improvements is in accordance with construction plans for the plat or site plan. Each as built sheet shall show all changes made in the plans during construction and on each sheet there will be an as built stamp bearing the signature of the engineer of record and the City Engineer, and date.

- C. **Engineer to Provide Drawings:** The applicant's engineer shall provide to the City two (2) reproducible drawings and a CAD drawing file compatible with the City's CAD system, of the final plat or site plan and each of the utility plan sheets containing the as built information. For all water and sewer utility installations, GIS shapefiles or file geodatabase data showing all pipeline and facility locations will be also provided. When such requirements have been met, and verified by the City Engineer and City Planner or designated planning staff member, the City shall thereafter accept the required development improvements for dedication in accordance with the established procedure as set forth in section 13-6-11 of this chapter. "Acceptance of the development" shall mean that the developer has transferred all rights to all the public improvements to the City for use and maintenance. The City Council may, at their discretion, accept dedication of a portion of the required public improvements, provided adequate surety has been given for the completion of all the required development improvements.

CHAPTER 8 AMENDMENTS TO THIS TITLE AND ZONE DISTRICT MAP

SECTION CONTENTS:

- 13-8-1: **Authority**
- 13-8-2: **Initiation of Amendments**
- 13-8-3: **Amendment Procedures**

13-8-1: **AUTHORITY:**

The City Council may from time to time amend, supplement or repeal the provisions and regulations of this Title and the zone district map of Oakley City. No change to the text of this Title which affects a portion, or all of the real property regulated by this Title and no rezoning of a specific parcel of real property by a change in zoning classification resulting in a change to the zone district map shall be valid unless approved by the City Council pursuant to the provisions set forth herein, except that an application for amending an approved MPD plan shall be processed pursuant to the provisions of chapter 5 of this Title.

13-8-2: **INITIATION OF AMENDMENTS:**

Any amendment to the text of this Title or the zone district map may be initiated in the following ways:

- A. By a motion of the City Council;
- B. Upon the request of the Planning Commission;
- C. By the City Planner; or
- D. Upon the request of the individual having deed title of real property within the area to be rezoned.

13-8-3: **AMENDMENT PROCEDURES:**

- A. **Amendment to Text of Code:** Whenever there is initiated an amendment to the text of this Title, such amendment shall be accomplished in the following manner:
 - 1. A copy of the proposed amendment shall be delivered to the Planning Commission for its review and recommendation. Prior to making a recommendation, the Planning Commission shall hold a public hearing regarding the proposed amendment.
 - 2. The Planning Commission's recommendation shall be delivered to the City Council. The City Council shall hold a public hearing on the proposed

amendment. Following the public hearing, the City Council shall either approve or deny the amendment.

B. Amendment to Zone District Map (Rezoning):

1. If the applicant is a private landowner:
 - a. An application for an amendment to the zone district map shall be submitted to the City Planner or designated planning staff member. The City Council may permit the rezoning of the property only after it has determined that said rezoning is generally consistent with the goals and objectives of the general plan, all other criteria and considerations described in this Title, and said action is necessary to promote the public health, safety and welfare of the residents of Oakley City.
 - b. The application must be authorized by each owner of the real property that is located within the area to be rezoned or a duly authorized representative of each owner.
 - c. Approval of an amendment to the zone district map shall not be granted until both the Planning Commission and City Council have reviewed the specific development proposal, have each held a public hearing, and determined:
 - (1) The amendment is generally consistent with the goals of the General Plan;
 - (2) The amendment is compatible with adjacent land uses and will not be overly burdensome on the local community;
 - (3) The specific development plan is in compliance with all applicable standards and criteria for approval as described in chapter 5 of this Title; and
 - (4) The amendment does not adversely affect the public health, safety and general welfare.
 - d. All rezoning approvals will require that the proposed project be processed as a Master Planned Development (MPD).
2. The City Council may initiate the action on its own motion or upon request of the Planning Commission or City Council.
 - a. When the amendment is proposed by the City Council, the application shall contain the following:
 - (1) An accurate survey map or other sufficient legal descriptions.
 - (2) The names and addresses of all owners of real property within the area to be rezoned, or if on a large scale, clearly identifiable property lines followed upon the map.
 - (3) The proposed nature of the amendment.
 - b. The Planning Commission shall review the proposed amendment. The Planning Commission must find that the proposed amendment is consistent with the requirements in subsection B1c of this

section. Prior to making a recommendation, the Planning Commission shall hold a public hearing regarding the proposed amendment.

- c. The Planning Commission's recommendation shall be delivered to the City Council. The City Council shall hold a public hearing regarding the proposed amendment. Following the public hearing, the City Council shall either approve or deny the amendment. In order to approve the amendment, the City Council must find that the proposed amendment is consistent with the requirements in subsection B1c of this section.

- C. **Amendments by Ordinance:** All amendments to the text of this Title and to the zone district map shall be authorized by ordinance, in the manner prescribed by state law.

CHAPTER 9 GENERAL REGULATIONS

SECTION CONTENTS:

- 13-9-1: Public Hearing Requirements**
- 13-9-2: Nonconforming Uses, Structures and Lots**
- 13-9-3: Home Occupations**
- 13-9-4: Signs**
- 13-9-5: Accessory Dwelling Units**
- 13-9-6: Equipment Enclosures, Utility Structures and Related Facilities**
- 13-9-7: Wireless Communications**
- 13-9-8: Infrastructure Standards**
- 13-9-9: Development Agreements**
- 13-9-10: Reapplication Following Denial**
- 13-9-11: Revocation of Approvals and/or Permits**
- 13-9-12: Failure to Comply with Conditions**
- 13-9-13: Effective Period of Approvals**
- 13-9-14: Issuance of Building Permits**
- 13-9-15: Project Closure Due to Inaction**
- 13-9-16: Residential Care Facilities for The Elderly or Disabled**
- 13-9-17: Hazardous Liquids or Materials Transmission Pipelines**
- 13-9-18: Lighting and Dark Sky Regulations**
- 13-9-19: Adaptive Reuse of Historically Significant Structures**
- 13-9-20: Temporary Homes, Tiny Homes, Tourist Homes, and Nightly Rentals**
- 13-9-21: Panhandle or Flag Lots**
- 13-9-22 Parking and Vehicle Storage**
- 13-9-23 Fencing**
- 13-9-24 Shipping Containers**
- 13-9-25 Trails**
- 13-9-26 Animals**
- 13-9-27 HOA's**

13-9-1: PUBLIC HEARING REQUIREMENTS:

Unless otherwise stated in this Title, all notices required under this section shall follow 13-1-20 of this Title and be posted at least ten (10) days before the date of any public hearing and in accordance with State law. Published notice shall state the nature of the request for which the application has been made, and the time, place and date of the public hearing on the matter.

13-9-2: NONCONFORMING USES, STRUCTURES AND LOTS:

- A. **Purpose:** Within the zone districts established in chapter 4 of this Title, there may be existing lots, structures, and uses of land and structures, which were lawfully established before the adoption of this Title, but which are now prohibited, regulated, or restricted. It is the intent of this section to allow these uses and structures to continue until such time as they are removed or otherwise brought into conformance with this Title.
- B. **Burden on Owner to Establish Legality:** The property owner bears the burden of establishing that any nonconforming use or nonconforming structure lawfully exists.
- C. **New Nonconforming Use Structure Prohibited:** No lot, parcel of land, or interest therein, shall be transferred, conveyed, sold, subdivided or acquired either in whole or in part so as to create a new nonconforming use, structure, or lot/parcel, or to avoid or circumvent the requirements of this Title. No building permit will be issued for any lot, parcel, or structure which has been transferred, conveyed, sold, subdivided or acquired in violation of this Title.
- D. **Nonconformance of Area Per Dwelling Unit:** A parcel/lot that was lawfully created but does not conform to the minimum area per dwelling unit requirement of the zone district in which it is located shall be considered a lot of record and is entitled to one, but no more than one dwelling unit thereon (lot of record) if it can meet the Land Management and Development Code criteria.
- E. **Maintenance and Repair of a Nonconforming Structure:** A nonconforming structure may be repaired, maintained, or improved, provided such repair, maintenance, or improvement is in compliance with the provisions of this Title. A nonconforming structure may be altered to decrease its nonconformity or to be brought into compliance with the provisions of this Title.
- F. **Removal of a Nonconforming Use or Nonconforming Structure:** If any such nonconforming use, nonconforming structure or nonconforming portion thereof is demolished or removed at the will of the property owner, any subsequent use, structure or portion thereof shall thereafter be required to conform to the regulations specified in this Title for the zone district in which the use or structure is located.
- G. **Replacement of a Nonconforming Use or Nonconforming Structure:** If any nonconforming use, nonconforming structure, or nonconforming portion thereof, is destroyed by fire or other natural cause, it may be replaced. If all necessary development permits are not obtained to repair or replace the damaged

structure or use within one year from the date of loss, the structure or use may not be reconstructed or replaced, except in conformance with the provisions of this Title. The City Planner or designated planning staff member may grant a onetime, one-year extension upon finding that special circumstances, such as construction schedules, seasonal weather conditions, renewed business demand, or other similar circumstances exist which warrant such an extension. In order to grant an extension, the property owner shall file a written request to the Planning department requesting such extension and be under due diligence in replacing or rebuilding the use or structure, prior to the end of the original one-year period.

H. **Enlargement of a Nonconforming Residential, Agricultural, or Accessory Structure:** A nonconforming residential, agricultural, or accessory structure may be enlarged according to the following criteria:

1. **Building Permit Required:** Any portion of a nonconforming residential or accessory structure that complies with the setback requirements for the zone district in which the structure is located may be enlarged through the building permit process only, if the enlargement will further comply with all applicable zoning requirements. See figure 1 of this section.

FIGURE 1

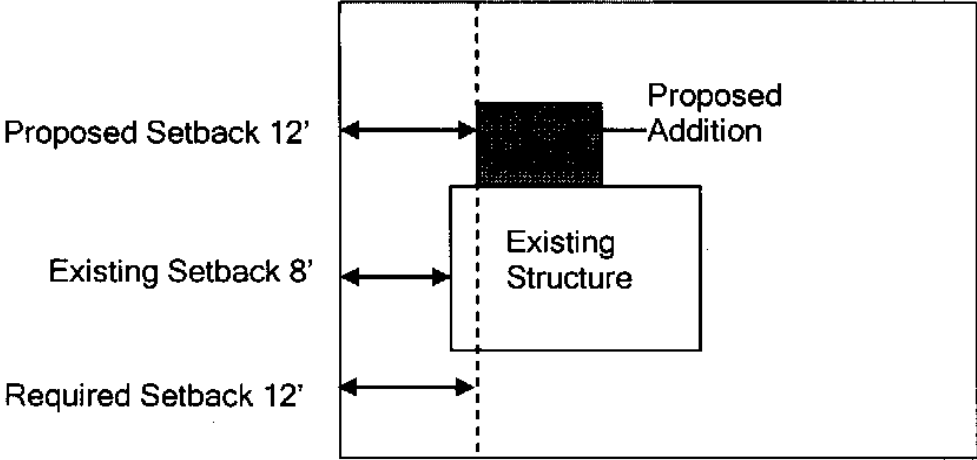


Figure 1: Addition proposed that complies with the zone required setbacks. Building permit required.

2. **Agricultural Structure:** Any portion of a nonconforming agricultural structure that complies with the setback requirements for the zone district in which the structure is located may be enlarged through the building permit process or if applicable, the agricultural use exemption, if the enlargement will further comply with all applicable zoning requirements. See figure 1 of this section.
3. **Low Impact Permit Required:** Any portion of a nonconforming residential, agricultural, or accessory structure that does not comply with the setback

requirements for the zone district in which the structure is located may be enlarged through the low impact permit process described in section 13-5-16 of this Title and according to the following criteria:

- a. At least fifty percent (50%) of the existing structure walls to be expanded, from which the setback is measured, must be nonconforming. See figure 2 of this section.

FIGURE 2

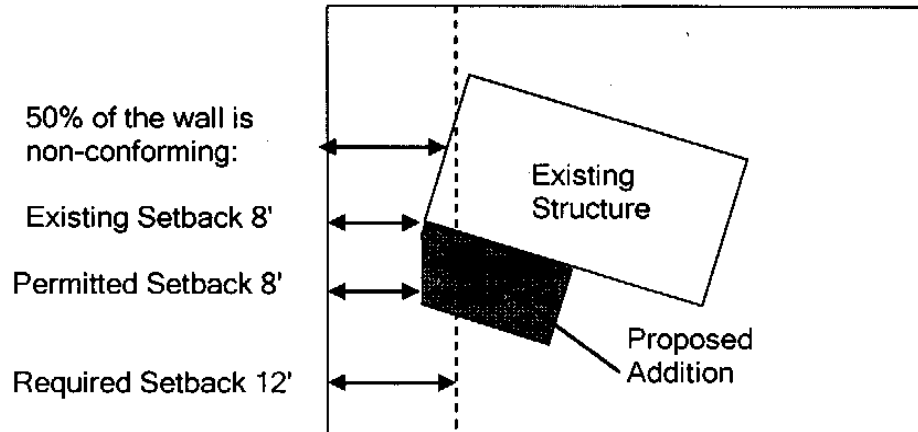


Figure 2: At least fifty percent (50%) of the wall proposed to be enlarged shall be nonconforming. Low impact permit required.

- b. Additions to nonconforming residential, agricultural, or accessory structures may extend to the existing nonconforming setback line, but may not encroach further into the setback. See figure 3 of this section.

FIGURE 3

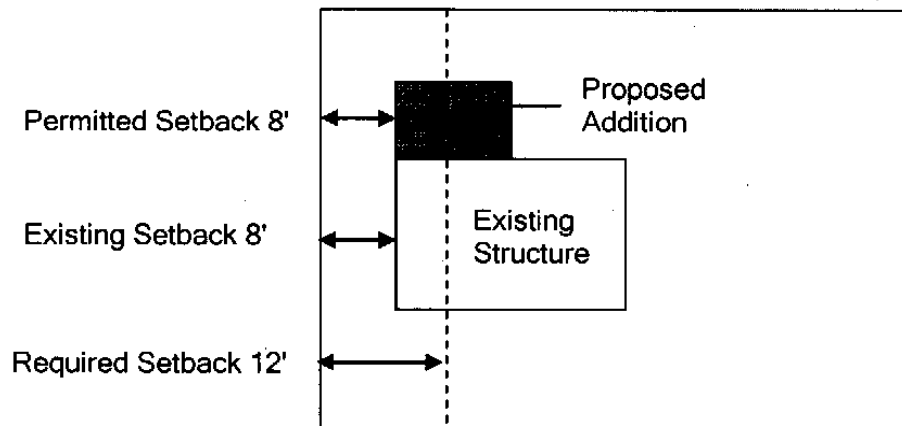


Figure 3: Addition proposed to the existing nonconforming setback line, but not further into the setback. Low impact permit required.

- c. In no case shall the addition be closer than fifty percent (50%) of the zone required setback. See figure 4 of this section.

FIGURE 4

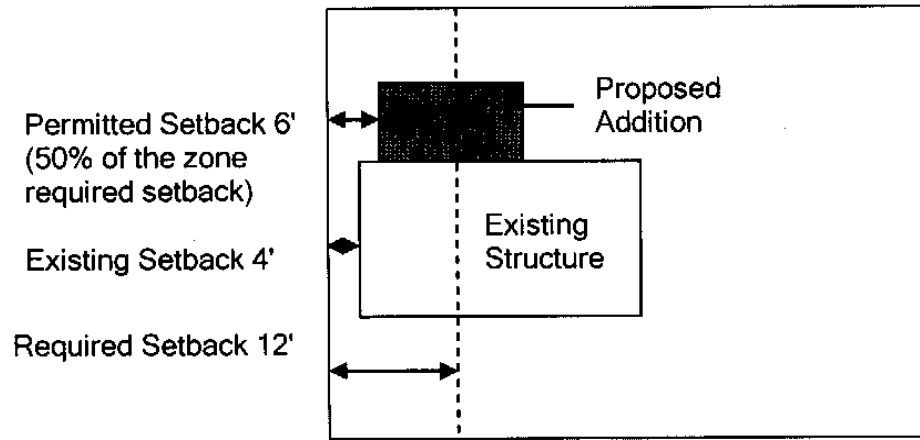


Figure 4: Addition proposed to the existing nonconforming setback line, but not closer than fifty percent (50%) of the zone required setback. Low impact permit required.

- d. Nonconforming residential, agricultural, or accessory structures may not be enlarged for the purpose of increasing density.
- I. **Enlargement of A Nonconforming Commercial or Industrial Structure:** A nonconforming commercial or industrial structure may be enlarged according to the following criteria:
 1. **Building Permit Required:** Any portion of a nonconforming commercial or industrial structure that does not comply with the setback requirements for the zone district in which the structure is located may be enlarged through the building permit process, only if the enlargement will further comply with all applicable zoning requirements. This provision only applies to commercial or industrial nonconforming structures that contain a conforming use. See figure 1 of this section.
 2. **Low Impact Permit Required:** A nonconforming commercial or industrial structure shall not be enlarged in any way that increases the nonconformity, except through the low impact permit process described in section 13-5-16 of this Title and according to the criteria found in this section. A public hearing shall be held before the commission. Following the public hearing, the commission shall make a recommendation to the City Planner regarding an approval, approval with conditions, or denial of the application.

- J. **Enlargement or Conversion of a Nonconforming Commercial or Industrial Use:** A nonconforming commercial or industrial use may be enlarged or converted to another nonconforming use according to the following criteria:
1. **Low Impact Permit Required:** A nonconforming commercial or industrial use shall not be enlarged in any way that increases the nonconformity except through the low impact permit process described in section 13-5-16 of this Title and according to the criteria found in this section. A public hearing shall be held before the commission. Following the public hearing, the commission shall make a recommendation to the City Planner regarding an approval, approval with conditions or denial of the application.
 2. **Abandonment or Loss of Nonconforming Commercial or Industrial Use:** A nonconforming commercial or industrial use that is discontinued for a continuous period of one year is presumed abandoned and shall not thereafter be reestablished or resumed. The property owner shall have the burden of establishing that any claimed abandonment has not in fact occurred. Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing such abandonment. All evidence either providing non-abandonment or abandonment shall be submitted to the City Planner who shall make a final determination of abandonment status. Any subsequent use of the building, structure, or land must conform to the regulations specified in this Title for the zone district in which the use is located.
 3. **Special Standards that Shall Be Met for Expansions or Conversions of Nonconforming Commercial or Industrial Uses:**
 - a. The use does not significantly increase vehicular traffic or interfere with traffic flow;
 - b. The use does not significantly increase the demand for parking;
 - c. The use does not significantly intensify the likelihood of pedestrian and vehicular conflicts;
 - d. The use does not create unsightly conditions or impacts to the environment including, but not limited to, unscreened storage and other environmental concerns;
 - e. The use does not significantly intensify noise levels or odors;
 - f. The use does not create significant dust and dirt conditions, which cannot be adequately mitigated;
 - g. The use does not significantly intensify lighting and glare conditions;
 - h. The use does not create a significant change in privacy for adjacent property owners; and
 - i. The use will not adversely affect, in a significant manner, the public health, safety, and welfare.

K. Sensitive Lands:

1. **Prohibited:** Any portion of a nonconforming residential, agricultural, accessory, or commercial structure or any portion of a nonconforming use that is located within sensitive lands (wetlands, slopes greater than 30 percent, and streams) shall not be enlarged.

13-9-3: HOME OCCUPATIONS:

A. **Purpose:** The purpose of this section is to ensure that the owners of one-family dwelling units may undertake occupations on the premises, so long as the home occupation is not intrusive to surrounding land uses or will not alter the essential character of the neighborhood. Home occupations may be established, maintained and expanded, so long as they are consistent with the standards described below. Home occupations that meet these standards do not require further approval by the City, but the operator may be required to obtain and maintain a valid business license.

B. **Standards:** All home occupations shall comply with the following standards:

1. Home occupation may take place within the residential building, an accessory building, or outside on the parcel/lot. The use of the dwelling unit, accessory building or parcel/lot must be clearly incidental and subordinate to its use for residential purposes;
2. The impacts of related activity outside of the dwelling shall create minimum impact on surrounding residential uses. Screened outside storage of materials as viewed from neighboring properties is required. Home occupations shall generate minimal dust, odor, fumes, noise, light, and other similar impacts that are not customary to the permitted dwelling unit alone;
3. Vehicular traffic associated with the home occupation shall not exceed that which would normally be expected in the residential area in which it is located;
4. Exterior advertising for home occupations on the premises is not permitted;
5. Retail sales and rentals shall not be considered home occupations; and
6. Home occupations shall comply with all applicable development evaluation standards described in chapter 3 of this Title.
7. Home occupations that correspond to or resemble a use as found in 13-4-19 shall be governed by that section and may require further permitting.

13-9-4: SIGNS:

No sign shall be erected, relocated or enlarged until the plan for such sign has been approved and a permit issued by the City Planner or designated planning staff member.

Nameplates, property signs, service signs, and temporary signs conforming to the provisions of this Title may be erected without such approval or permit.

- A. **Number of Freestanding Signs:**
 - 1. Lots with less than three hundred feet (300') of street frontage on one street shall be allowed one freestanding sign.
 - 2. Lots with more than three hundred feet (300') of street frontage on one street shall be allowed two (2) freestanding signs.

- B. **Location of Freestanding Signs:** Freestanding signs shall be set back at least five feet (5') from any property or right of way line.

- C. **Size of Signs:**
 - 1. One square foot of sign area shall be permitted for every five feet (5') of continuous linear building frontage upon which such sign is mounted, up to a maximum of thirty (30) square feet.
 - 2. Freestanding signs shall not exceed forty (40) square feet.

- D. **Lighting of Signs:** No spotlight, floodlight, luminous tubes or lighted sign shall be installed in any way which will permit the direct rays of such light to penetrate into any residential zone or onto any property used for residential purposes. All lighted signs must comply with 13-9-18 of this chapter.

- E. **General Restrictions:** No light, sign or other advertising structure shall be erected at the intersection of any streets in such a manner as to obstruct free and clear vision or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device; or which makes use of the words "stop", "look", "danger", or any word, phrase, symbol, or character in such a manner as to interfere with, mislead or confuse traffic.

- F. **Signs on Public Property:** No sign shall be erected on or project over publicly owned land, except signs erected by a public agency for the direction and safety of the general public.

- G. **Real Estate Signs:** No real estate sales sign shall be located within thirty feet (30') of the edge of an adjacent road surface or no closer than an existing fence line that is parallel to the road, whichever distance is less.

- H. **Campaign Signs:** Campaign signs are exempt from obtaining a sign permit; however, they must still comply with the following guidelines. Campaign signs shall not exceed three (3) square feet of area and four feet (4') in height, measured from the top of the sign to the grade directly below the sign. Campaign

signs are permitted in any zone district, provided they are located a minimum of ten feet (10') back from the edge of the curb or edge of pavement, where there is no curb on the street which the sign fronts. If the ten-foot (10') distance would be within a structure, the sign may be within three feet (3') of the front of the structure. Illumination of campaign signs is prohibited. These signs shall only be permitted on private property with the permission of the property owner and are not permitted in the public right of way. City personnel may remove and impound these signs if notice to remove the signs has been sent to the property owner or candidate and they have failed to comply with that notice.

- I. **Off Premises Signs Prohibited:** No sign shall be erected or maintained on a parcel, lot or project area other than the specific lot or parcel on which the use or activity advertised on the sign is located.

- J. **Nonconforming Signs:** Nonconforming signs, excluding billboards, shall be required to conform or be removed as follows. On the happening of any of the events described below, or where any of the following conditions apply, the sign or signs shall be brought into compliance within one year after the effective date hereof, and a new permit shall be secured therefor, or shall be removed.
 - 1. The cost of the nonconforming sign is valued at less than one hundred dollars (\$100.00). Sign value shall be determined based on an actual sales receipt for the sign or a cost estimate for the replacement cost provided by a qualified professional.
 - 2. When a nonconforming sign is destroyed or damaged to an extent in excess of fifty percent (50%) of the sign value.
 - 3. The sign is relocated in any manner.
 - 4. If the sign is altered structurally, or if more than fifty percent (50%) of the copy, as measured by the sign area, is altered, except for changeable copy signs and maintenance.
 - 5. If the business or service for which the nonconforming sign was installed is expanded or modified. All improvements to a single business or use within any twelve (12) month period shall be treated cumulatively in the administration of this subsection.
 - 6. Nothing in this section shall be deemed to prohibit the City from removing a billboard without providing just compensation in accordance with the procedures set forth in this subsection if the City Council provides reasonable notice of the proceedings and, following a public hearing, finds:
 - a. The applicant made a false or misleading statement in any application to the City necessary to establish or change the billboard;
 - b. The billboard is unsafe or presents a hazard to persons or property;
 - c. The billboard is in a state of disrepair; or
 - d. The billboard has been abandoned for at least twelve (12) months.

13-9-5: ACCESSORY DWELLING UNITS:

A. **Scope:** When designated in section 13-4-19 of this Title, an accessory dwelling unit or an agricultural employee dwelling unit may be approved by the City. When approved through the conditional use process, both an accessory dwelling unit and an agricultural employee dwelling unit (if allowed in the zone) may be approved on the same parcel/lot.

B. **Accessory Dwelling Unit:**

1. An accessory dwelling unit shall not exceed one thousand (1,000) square feet of gross square footage, as measured from exterior wall to exterior wall of the dwelling unit itself.
2. An accessory dwelling unit may be placed within or attached to a larger detached accessory structure (such as a barn or garage), but the dwelling unit itself shall be limited to one thousand (1,000) square feet. This use is still defined as a detached accessory dwelling unit.
3. If permitted by subdivision CCR's, one accessory dwelling may be allowed within or attached to an existing home, i.e. basement apartment in the Community Residential (CR) zones. Detached accessory dwelling units are not allowed in subdivisions in the CR zones. Building permits are required for all indoor or attached accessory dwelling units.
4. Building permits and other provisions of this Title will apply to the size and permitting of any detached accessory dwelling unit structure.
5. Any type of constructed walkway, skyway, hallway, or breezeway connecting the accessory dwelling unit to the primary residence does not make the accessory dwelling unit an attached or internal accessory dwelling unit.
6. Any type of internal accessory dwelling unit which requires an addition to the square footage of the primary unit will be treated as an attached accessory dwelling unit.
7. Internal Accessory Dwelling Units (ADU's) are a permitted use in all zones and are subject to the following limitations and conditions:
 - a. The ADU is constructed entirely within an existing single-family residential dwelling without changing the appearance of the dwelling as a single-family dwelling or adding to the dwelling's footprint.
 - b. The primary dwelling must be occupied by the owner.
 - c. The dwelling must provide one additional parking spot for the ADU in addition to normal parking requirements for the dwelling and any parking lost by the construction of the ADU.
 - d. The dwelling must be on a lot of at least 6,000 square feet and served by an adequate sewer or septic system.

- e. The ADU cannot be used as a short-term nightly rental (i.e., Air BnB).
 - f. The ADU cannot have separate utility connections.
 - g. The ADU must satisfy all City building and local fire codes.
- C. **Agricultural Employee Dwelling Unit:** An agricultural employee dwelling unit is a one-family dwelling unit of up to but not to exceed two thousand (2,000) square feet. Before an agricultural employee dwelling unit is approved, it must be demonstrated that the property on which the dwelling will be located contains a viable "agricultural operation", as defined in appendix A of this Title. An agricultural employee dwelling unit shall be located in reasonable proximity to the primary residential dwelling unit as determined through the conditional use review. An agricultural employee dwelling unit can be constructed prior to the primary structure as long as the low impact permit or conditional use criteria is satisfied.
- D. **Deed or Restrictive Use Covenant Required:** An accessory dwelling unit and an agricultural employee dwelling unit shall be connected by deed or restrictive use covenant to the principal dwelling unit or structure on the parcel/lot and shall not be eligible for subdivision or condominiumization and conveyance to another person.
- E. **Nightly Rental Units:** If an accessory dwelling unit is to be used at any time (as declared in the application) as a nightly rental unit, further regulations and approvals will be necessary as per 13-9-20 of this chapter.

13-9-6: EQUIPMENT ENCLOSURES, UTILITY STRUCTURES AND RELATED FACILITIES:

Equipment enclosures, utility structures, and related facilities shall address the following issues: screening, noise level, odors/air quality, lighting, landscaping, architectural screening/buffering, proximity, etc. The length, size, and architectural character of the proposed structure must be compatible with the residential uses in the area and must comply with the setback requirements for the zone in which it is located.

- A. **Purpose:** The purpose of this section is to ensure that all utility facilities/structures are located, installed, buffered/screened and maintained in a manner that will minimize the impact of such facilities/structures on nearby landowners and will not adversely affect the rural, agricultural, small town character and scenic beauty of Oakley City.
- B. **Application:** All applicants wishing to submit an application to construct utility facilities/structures shall: 1) submit to staff the latitude and longitude of proposed utility facilities/structures; 2) meet or exceed the following criteria in addition to the conditional use criteria in section 13-5-7 of this Title:

1. **Site Location/Proximity:** The equipment enclosures and facilities/structures shall be located in a manner that reduces, to the maximum extent possible, the visibility from any major highway, roadway and/or adjacent development. Such facilities and related uses shall also be required to be consistent with the aesthetics of the neighborhood, and particular care shall be taken to reduce all potential impacts on adjacent residential uses.
2. **Site Layout and Design:** Such development shall be integrated into the site in a manner that is sensitive to the existing topography, vegetation and any nearby structures, and which utilizes the existing site features, to the maximum extent possible, to screen the facilities from nearby landowners and sensitive view corridors.
 - a. Fencing shall be within five feet (5') or less from structures and allowance of two (2) parking stalls for temporary parking and maintenance requirements within enclosure. Fence setbacks from structures can be varied upon review of application if there are site limitations or applicant maintenance requirements.
 - b. Hard surface and gravel areas outside of proposed structures shall not extend to property boundaries, but shall instead be minimized, to the greatest extent possible, with appropriate landscape buffering as described in subsection B4 of this section.
3. **Architectural Screening:** When appropriate and/or necessary to meet the requirements of subsection A of this section, architectural screening shall be utilized to disguise the facilities/structures as typical farm type outbuildings which are consistent with the rural, agricultural character of the area. Long, unbroken facades and rooflines shall be avoided as well as the use of industrial type material and finishes.
4. **Landscape Buffering:** When appropriate and/or necessary to meet the requirements of subsection A of this section, landscaping and/or berming techniques shall be utilized to mitigate the visual and other related impacts of utility facilities/structures. Such landscaping and berming shall emulate the natural, rural landscape. All disturbed areas shall be revegetated with appropriate plant materials. Temporary irrigation shall be required for initial establishment and long term support of new landscaping and revegetation of disturbed areas.
5. **Lighting:** Lighting shall be the minimum required for maintenance and security purposes. Fixtures shall be fully shielded with light directed down and shall be controlled by motion detectors such that the lights are off unless needed for maintenance access or tripped on by motion detectors. Flood type area lighting is prohibited. Wall mounted fixtures shall be installed no higher than eight feet (8') above the finished grade immediately below the fixture. See 13-9-18 of this chapter for further regulations.

6. **Noise:** The development shall not generate noise which would result in materially adverse impacts to the adjacent land or its occupants. A noise study may be required to make this determination.
7. **Security Fencing:** Security fencing shall be as unobtrusive as possible and shall blend in with the surrounding environment.
8. **Fuel Storage/Handling:** On site fuel storage (for backup generator, etc.) shall be designed for full, backup containment in the event of primary tank failure and/or spillage during refueling. Any and all fuel spills or spills of any hazardous materials shall be immediately cleaned up, removed from the site and disposed of in accordance with all federal, state and local regulations.
9. **Outdoor Storage:** Outdoor storage of materials and equipment shall be prohibited.
10. **Maintenance:** At all times, all site improvements, including any required landscaping, fencing, buildings, finishes, etc., shall be maintained to an acceptable standard such that the facilities and related site improvements shall not adversely affect, in a significant manner, the public health, safety and welfare.

13-9-7: WIRELESS COMMUNICATIONS:

- A. **Purposes:** The purpose of this section is:
 1. To ensure that all telecommunications facilities comply with federal, state and City regulations.
 2. To regulate telecommunications services, antennas and support structures, and related electronic equipment and equipment enclosures.
 3. To provide for the orderly establishment of telecommunications facilities in the City.
 4. To minimize the number of antenna support structures by encouraging the collocation of multiple antennas on a single structure, and by encouraging the location of antennas on preexisting support structures.
 5. To establish siting, appearance and safety standards that will help mitigate potential impacts related to the construction, use and maintenance of telecommunications facilities.
 6. To comply with the telecommunications act of 1996 by establishing regulations that:
 - a. Do not unreasonably discriminate among providers of functionally equivalent services.
 - b. Do not prohibit or have the effect of prohibiting the provision of telecommunications services.
 - c. Are not based on any claimed environmental effects of radio frequency emissions to the extent that such facilities comply with the federal communication commission's regulations concerning such emissions.

- d. Ensure that all utility facilities/structures are located, installed, buffered/screened and maintained in a manner that will minimize the impact of such facilities/structures on nearby landowners and will not adversely affect the rural, agricultural, small town character and scenic beauty of Oakley City.

B. General Provisions:

1. **Independent Review:** The City may, if it deems necessary, cause the applicant to submit an impact study from a qualified, third party radio frequency engineer, to ensure that the proposed telecommunications facility will not interfere with existing radio, television, and emergency signals. The purpose of this review shall be to determine if other sites are available which can achieve an equivalent signal distribution without significantly affecting the existing telecommunications operations within the City. Such review may be required when an applicant indicates that no other acceptable site exists. The cost for such review shall be borne by the applicant.
2. **Permitted:** Telecommunications facilities applications shall be permitted in accordance with section 13-4-19 of this Title.

C. Construction Standards:

1. **Building Codes and Safety Standards:** To ensure the structural integrity of telecommunications facilities, the owner of a telecommunications facility shall ensure that it is maintained in compliance with the standards contained in applicable Building Codes and application standards for such telecommunications facility, as amended.
2. **Letter of Intent:** All applicants who apply to build a tower shall provide one letter of intent from a telecommunications company that will locate on the tower.

D. General Requirements:

1. **Setbacks:** A telecommunications facility shall be set back one hundred fifteen percent (135%) of the tower's height from the property line, or such facility shall meet the zone required setback, whichever is greater. The telecommunications facility shall be at least one hundred feet (100') from any public trail, park or outdoor recreation area. Guywire anchors shall be set back at least twenty feet (20') from any property line. The City Planner or designated planning staff member can approve varied setbacks if the telecommunications facility can be screened more appropriately by topography, vegetation or existing structures; however, the adjacent landowner(s) must sign a written agreement authorizing the decreased setback(s) from their property line(s). If telecommunications facilities are located in commercial or industrial zones or on City owned property, they shall only be allowed in the rear yard.

2. **Signage:** Signs shall be limited to nonilluminated warning and equipment identification signs, unless additional signs are warranted by the FAA, FCC, or any other agency of the State or Federal government with the authority to regulate telecommunications facilities.
3. **Access Roads:** Access roads shall be limited to ten feet (10') in width, unless otherwise approved by the fire district or Oakley City Engineering Office because of safety considerations. Access roads shall contain gravel or other nonpaved surface. Existing roads shall, whenever possible, be upgraded the minimum amount necessary.
4. **Collocation:** An applicant proposing to erect a new telecommunications facility shall provide documentary evidence that a legitimate attempt has been made to locate the new telecommunications facility on existing buildings or structures or as a collocation on an existing antenna support structure. Such evidence shall include a radio frequency engineering analysis of the potential suitability of existing buildings or structures or collocation sites in the radio frequency coverage area for the proposed telecommunications facility. Efforts to secure such locations may be documented through correspondence between the applicant and the property owner(s) of the existing buildings, structures or collocation sites.
5. **Equipment Enclosures:** Every effort shall be made so that equipment enclosures or other structures are designed whereby the incorporation of stealth design technology or other visual screening (topography or vegetation) is utilized that readily conceals the appearance of the structure.
6. **Master Plan Requirements:** A master plan shall be completed by each company submitting an application for a development review. The master plan shall include:
 - a. Where the applicant's proposed, existing and future telecommunications facilities are within the City. The master plan may be amended as needed by the carrier for future site applications.
 - b. The number of possible collocations that can be obtained on the proposed tower.
 - c. A copy of the applicant's current FCC license.
 - d. A signed agreement, stating that the applicant will:
 - (1) Allow collocation with other users, provided all safety, structural and technological requirements are met. This agreement shall also state that any future owners or operators will allow collocation on the tower;
 - (2) Restore site to its former condition. (See non-maintained or abandoned facilities.)
 - e. A security program or system that addresses unauthorized access and vandalism.

7. **Non-maintained or Abandoned Facilities:** The director or designated planning staff member may require each non-maintained or abandoned telecommunications facility to be removed when such a telecommunications facility has not been repaired or put into use by the owner, person having control, or person receiving benefit of such structure within six (6) months after written notice of non-maintenance or abandonment is given to the owner, person having control, or person receiving the benefit of such structure.

13-9-8: INFRASTRUCTURE STANDARDS:

A. Fire Protection Standards:

1. All development, including a single-family dwelling on an individual lot or parcel, which does not have year-round access or is located within the wildland fire urban interface zone, is subject to the fire protection measures required by the 2006 Utah wildland fire urban interface code and the respective fire district and/or fire warden.

The wildland urban interface (WUI) zone map was developed using the roads to the outside of the valley floors as a simplified boundary. The areas within the valley floors typically have a water supply or are in areas with irrigated fields/modified vegetation and are in the vicinity of maintained roads that lower the wildland fire potential, and are therefore excluded from the WUI zone. Areas within two hundred fifty feet (250') of these road centerlines are also excluded from the WUI zone, as fire equipment can typically access these buildings within National Fire Protection Association (NFPA) requirements for hose length. The two hundred fifty foot (250') buffer is to be measured from centerline of the road across the ground to the build(s) by way of the normal access provided.

For wildland/urban fire requirement purposes, the following criteria shall be used by the applicable Fire District when reviewing development applications in Oakley City:

- a. Location of building with respect to designated wildland urban interface (WUI) area based on the City and state approved map.
- b. Response time for responding fire units.
- c. Access, including road and bridge weight limits.
- d. Space at the building for sufficient fire equipment to adequately and safely fight or defend the building(s).
- e. Type and density of vegetation around the buildings.
- f. Separation of buildings from vegetation as to prevent a building fire from spreading to wildland.

- g. Type of road or driveway, length, and grade, as well as type of access (seasonal versus year-round).
- h. Distance from established water supply and the ability to get that water to the fire based on pump capacity, access, and space at the building and turnarounds.
- i. Other criteria that shall be used are the following state adopted laws and rules:
 - (1) The state fire code adoption act.
 - (2) Utah code subsection 65A-8-203(3)a (re: cooperative fire protection agreements with counties).
 - (3) Utah administrative code R652-122-200 minimum standards for wildland fire ordinance.
 - (4) Utah administrative code R309-550-5 water main design.
 - (5) 2006 Utah wildland urban interface code.
 - (6) Other provisions of this Title.
 - (7) The 2009 international fire code (IFC) or newer as adopted by the state of Utah.

Based on this review, applicants may be required to enact a variety of measures to minimize the level of fire hazard. The fire protection measures may include the following:

- a. Connection to a community or private water system, well or spring with a minimum five thousand (5,000) gallon water storage tank, pond, or other accessible water body with a dry hydrant.
- b. Defensible space around each dwelling.
- c. Noncombustible roofing materials.
- d. Internal fire sprinkler systems.

Based upon specific site characteristics (e.g., a meadow or irrigated field within the WUI zone) and the applicant's ability to provide an adequate combination of the above listed building or on-site improvements, the fire district may waive certain requirements.

All applicants for new development shall, at the time of application, acknowledge that they have reviewed the "Summit County Living with Fire" information pamphlet and consulted the building department, insurance companies, builders and fire districts/fire warden regarding fire protection.

B. Wildfire Hazard Guidelines:

1. All proposed developments within the High Risk zone of the Fire Hazard Zone map of the current General Plan shall be analyzed and rated on its wildfire risk using the fire hazard severity scale developed by the state, division of state lands and forestry. A development shall be rated based on the following criteria. The composite score will categorize the hazard level of the proposed development as moderate, high, or extreme. This rating, based on the following, shall be submitted to the City as part of any sketch plan:
 - a. Slope of the site on which the development is proposed;
 - b. Aspect, or the general direction in which the surface of the ground faces;
 - c. Response time of the responsible fire agency as measured in minutes;
 - d. Vegetation density to measure the fuel loading of the area; and
 - e. Type of vegetation to identify rates of spread, resistance to control and other factors.
2. Hazardous fuels in the form of native vegetation will be cleared around structures and around the perimeter of subdivisions where appropriate to assist in wildfire prevention. Fuel breaks are not intended as complete vegetation removal; but rather, they shall serve as a change in fuel continuity, type of fuel, and degree of flammability of fuel in a strategically located area to reduce or hinder the rate of fire spread. The amount of vegetation to be removed/left within a fuel break area shall be recommended by the appropriate fire district. Fuel breaks around residential dwelling units shall be in place before the issuance of a certificate of occupancy.
3. Fuel break clearing limits shall be as follows:

Type	Moderate	High	Extreme
Structures	30 feet	50 feet	75 feet
Development Perimeter	None	75 feet	100 feet

4. As part of a recorded plat for a subdivision in the high-risk fire zone areas, fuel break easement shall be identified, and a note shall be placed on the plat stating the following:

The fuel break easement is granted for the benefit of the Utah state area forester. Fuel breaks shall be maintained by the landowner or homeowners' association. Failure of the landowner to maintain the fuel break shall cause the area forester to cause the maintenance of the fuel break and charge the landowner for costs incurred.

- C. **Road Standards:** Public and private roads in subdivisions shall meet the following minimum right of way, surface, shoulder width, and other standards. Road surfaces shall be capable of providing all weather, year around access as approved by the Fire District and the City:

1. **Width of Surface:**

Design Speed	Design Volume						
	<25	25-250	251-699	700-999	1,000-2,499	2,500-5,000	5,001+
20 mph	14	16	20	22	22	24	24
30 mph	16	18	20	22	22	24	24
40 mph	18	20	22	22	22	24	24
50 mph	—	20	22	22	22	24	24+

Roads designed to carry a large traffic volume per day at higher speeds may be required to be wider than described. This will be based on a determination of the specific design volume, speed, terrain and other characteristics to be calculated at the time of development application. Public roads, to be owned and maintained by the City, shall be a minimum of twenty-four feet (24') of paved surface width. In special circumstances, providing safety standards are met, the City Engineer and Planning Commission may reduce this width standard on a case-by-case basis to protect sensitive lands, hill sides, reduce visibility, or minimize maintenance.

2. **Width of Shoulder:**

Design Speed	Design Volume						
	<25	25-250	251-699	700-999	1,000-2,499	2,500-5,000	5,001+
All Speeds	1' – 2'	1' – 4'	2' – 4'	2' – 6'	2' – 6'	2' – 6'	2' – 8'

Shoulders may be required to be compacted road base, asphalt or other suitable hard surface, or a combination thereof.

3. **Width of Right-Of-Way:** The minimum right-of-way width for a public road shall be sixty feet (60'). The requirements may increase as the paved surface width increases due to traffic volumes, as described above. The minimum right-of-way for private roads shall be double the driving surface

of the road. Exceptions may be made by the Planning Commission in certain constrained areas.

4. **Road Terrain:** Streets, roadways and private driveways shall follow as nearly as possible the natural terrain.
5. **Ingress and Egress:** At least one (1) ingress and one (1) egress routes shall be provided for each subdivision of eight (8) lots or greater, unless there is a crash gate or the extension of a future stub street that will provide additional access.
6. **Emergency Access:** Points of access shall be provided to all developed and undeveloped areas for emergency and firefighting equipment. Driveways located upon each lot extending from a public road or private right-of-way shall have sufficient width and design to admit and accommodate firefighting equipment (and comply with all City engineering standards).
7. **Road Curvature:** Centerline curvatures shall not be less than a one hundred (100) foot radius on any curved street pattern. To accommodate emergency vehicles, inner curvatures of the road surface cannot be less than twenty-six (26) foot radius.
8. **Variations:** Variations of the street design standards developed to solve special hillside visual and functional problems may be presented to the planning commission for consideration and approval. Examples of such variations may be the use of split roadways to avoid deep cuts, one-way streets, round-about, and modifications of surface drainage treatments, sidewalk design, non-paved road surfaces on private roads, or the extension of a cul-de-sac.
9. **Public Lands:** Developments adjacent to public lands shall provide for access by fire protection equipment.
10. **Construction Standards:** Roads shall be designed to meet the City road base, asphalt, grading, and compaction standards.
11. **Road Grades:** The maximum road grade of an arterial road shall be eight percent (8%). On all other roads, a grade of less than eight percent (8%) is encouraged and preferred. However, road grades in excess of eight percent (8%), up to a maximum of ten percent (10%), may be allowed for short distances when, in the opinion of the City, it is in the best interest of preserving the natural environment and when approved by the appropriate fire district. Short distances shall not exceed five hundred feet (500') within any one-thousand-foot (1,000') segment.

12. **Intersections:** The road grade at an intersection shall not exceed four percent (4%) for a minimum distance of one hundred feet (100') on each leg of the intersection, and flatter grades are desired.
 13. **Turnaround/Cul-De-Sacs:** Cul-de-sacs will be a maximum of one thousand three hundred feet (1,300') in length for developments with a moderate fire hazard rating, nine hundred feet (900') in high fire hazard rated areas, and five hundred feet (500') in areas of extreme fire hazard. No cul-de-sac shall have a driving surface width of less than twenty feet (20'), and twenty-four feet (24') from public roads. All cul-de-sacs shall have a turnaround of not less than ninety-six feet (96') in diameter. All cul-de-sacs must have a sign indicating that the road is a "dead end" road, to be located within one hundred feet (100') of the outlet. On certain low occupancy private roads, a "Hammerhead" or "Y" turnaround may be approved by the Planning Commission provided the total length of the "Hammerhead" or "Y" is one hundred twenty (120) feet in length.
 14. **Bridges and Culverts:** Bridges and culverts on public roads shall be designed to support an HS-20 highway loading requirement. Permanent culverts will be installed at all intermittent and perennial stream crossings. Specifications for bridges, culverts and other stream crossings shall take into account at least the 100-year frequency storm for bridges and the 25-year frequency storm for culverts. At a minimum, roads and bridges on public and private roads shall be capable of supporting the imposed load of fire apparatus weighing up to 75,000 pounds.
- D. **Gated Communities:** All proposed gated communities must comply with 13-3-5E.
- E. **Driveway Access:** The maximum grade of a driveway shall not exceed ten percent (10%). Twelve percent (12%) grades may be allowed for up to but not to exceed two hundred fifty (250) linear feet. The minimum width of a driveway shall be twelve feet (12').
- F. **Irrigation Ditch Easements:** An unobstructed easement at least sixteen feet (16') in width shall be provided and shown on the subdivision plats or site plans, to ensure proper access and maintenance of irrigation ditches and canals.
- G. **Water Storage for Firefighting Purposes:** New development shall be required to meet the minimum water storage requirements for firefighting purposes as established by the fire district.

- H. **Revised Standards Applicable:** Development is subject to revised general engineering standards and ordinances which are in effect at the time the application is submitted for review and approval by the City.
- I. **Curbs, Gutters, Trails, and Sidewalks:** Curbs, gutters, trails and/or sidewalks may be installed on all existing and proposed streets and along the frontage of any lot within a subdivision in conformance with the City's standard specifications and details for municipal construction, as adopted. Trails and paths will generally be preferred to sidewalks and will meet current or proposed trails construction standards and comply with the City's General Plan, including trails master plan or maps (if adopted). See Section 13-9-25 for more details.
- J. **Fire Hydrants:** Fire hydrants shall be installed by the developer in accordance with the City's specifications and details for municipal construction, the International Fire Code, and other local ordinances, at locations designated by the Fire Department as shown on the preliminary plat and City approved construction drawings.
- K. **Storm Drainage Systems:** Surface water runoff drainage systems shall be designed to handle all runoff generated within the subdivision by a ten-year storm and routing of water generated by a one hundred (100) year storm will be provided. Such systems shall be designed and installed by the developer according to the City's specifications and details for municipal construction and must be approved by the City Engineer.
- L. **Water Infrastructure:** All projects connecting to the City's water infrastructure must comply with all City Water Ordinances, Rules and Regulations, Conservation Plans, and Construction Standards and Specifications. All relevant fees must be paid, and water system designs, materials, and construction plans, processes, and guarantees must be approved by the City Engineer.

To conserve City culinary water sources and reduce the impacts upon the water distribution system, any new commercial development, MPD, or subdivision which develops agricultural property serviced by an existing unpressurized or pressurized irrigation system may be required to connect to and irrigate all or a portion of landscaping with either an existing or a newly developed pressurized irrigation system. All culinary water demands; landscaping, water conservation designs, and alternate supplies of irrigation water must be evaluated. If a subdivision is to be served by City water which was previously irrigated with water from an irrigation company, additional analysis and determinations will need to be made by the City as a condition to project approval:

1. Can the subdivision be irrigated fully or partially by a pressurized irrigation system using its current ditch company water rights? If so, the plans must show which portions of land are to be irrigated with existing raw ditch water, which portions are to be left in a natural state, and which portions

will be irrigated with City water. This evaluation must include the supply and maintenance of any proposed water features and ponds.

2. Can the water rights associated with the developed property be moved through a change application with the State Engineer to the City's culinary water sources? If so, will they have a priority and quantity (after the change) to adequately service the property?
3. If there are plans to service the area with a new larger or regional pressure system in the foreseeable future, secondary piping and appurtenant facilities may be required to be installed and maintained to be utilized in the future when a proper connection can be made.
4. Bonus density in an MPD (as described in Appendix B) may be available for developments serviced by sustainable secondary irrigation systems.

- M. **Sewer Infrastructure:** All projects connecting to the City's sewer infrastructure must comply with all City Sewer Ordinances, Rules and Regulations, and Construction Standards and Specifications. All relevant fees must be paid, and sewer system designs, materials, and construction plans, processes, and guarantees must be approved by the City Engineer. Sewer collection systems situated in the Weber River bottoms, wetlands, or high-water table areas must be designed, inspected, and tested to ensure that no ground water or irrigation water can infiltrate the collection system. The system must be further designed to only service typical indoor wastewater needs and must not be connected to any roof drains, pool or pond drains, or any possible land or storm drainage collection systems.

13-9-9: DEVELOPMENT AGREEMENTS:

- A. **Authority:** The City may, but under no circumstances is it required to, enter into a development agreement with a property owner or applicant for development approval. The City, at its sole discretion, may opt to use a development agreement when it determines that such an approach to development promotes and protects the public health, safety and general welfare. Development agreements shall be used to implement a specific plan under an MPD development or zoning designation, as indicated in section 13-5 of this Title.
- B. **Binding Agreement:** Whenever the City opts to enter into a development agreement, the agreement shall constitute a binding contract between the applicant and the City. It shall contain those terms and conditions agreed to by the applicant and the City. The agreement shall describe all limitations, restrictions and parameters associated with the development of the subject property. The agreement shall describe all processes and procedures for obtaining final approval and building permits. The agreement shall not allow the sale or transfer of individual parcels or components of the entire project unless specifically provided for in the agreement or as otherwise allowed under state law.

- C. **Effect of Approval:** Upon approval of the development agreement, it shall constitute a vested right in the specific terms and proposals for a period of five (5) years from the date of the approval, or longer when specifically allowed in the agreement, subject to any conditions agreed to and incorporated into the agreement.
- D. **Criteria for Approval:** The criteria for approval are as follows:
1. The development agreement has been duly adopted in accordance with the provisions stated in this section.
 2. The development agreement includes written consent by each landowner whose properties are included within the area described.
 3. The City Council, after receipt of a recommendation from the Planning Commission and review and consideration of the development agreement, finds that the specific proposals, terms and conditions contained in the agreement are consistent with the intent of the general plan, result in benefits to the general public that would not otherwise occur under the literal application of this Title, and provides a more flexible way to more effectively protect the health, safety and general welfare of the public.
 4. Development allowed under a development agreement shall comply with the development evaluation standards in chapter 3 of this Title, the infrastructure standards in this chapter, and all other criteria described in pertinent sections of this Title.
 5. When appropriate, based on the size of the project, the landowner or applicant agrees to, at a minimum, contribute all capital improvements and facilities necessary to mitigate the impacts of the project on the City and special districts.
 6. The landowner or applicant will mitigate all fiscal impacts on the general public.
 7. Development shall not be permitted to create unacceptable construction management impacts.
 8. While a creative approach to the development and use of the land and related physical facilities may be allowed by a development agreement, all development approved in the agreement shall meet or exceed development quality objectives of this Title.
 9. The development shall be consistent with the goal of orderly growth and minimize construction impacts on public infrastructure within Oakley City.
 10. The development shall protect life and property from natural and manmade hazards.
 11. The development shall prevent harm to neighboring properties and lands, including nuisances.
 12. Development agreements cannot include language that restricts the City's legislative discretion, such as, a development agreement cannot bind the

City's future actions regarding ordinances, annexations, rezones, development rights, etc.

13. Any development agreement that modifies or conflicts with a normal development requirement, such as land or water dedication requirements, open space requirements, density, or lot size limitations, etc., must be approved in the same way as a land use ordinance amendment as found in Chapter 13-8, and shall include all relevant public hearing(s) and reviews by the Planning Commission.

- E. **Procedure for Approving Agreements:** All development agreements shall be reviewed and approved in accordance with the procedures for a MPD, as described in section 13-5 of this Title.

13-9-10: REAPPLICATION FOLLOWING DENIAL:

If any application for development approval is denied for failure to meet the substantive requirements of this Title, an application for all or a part of the same property shall not be considered for a period of one year from the date of denial unless the subsequent application for development is substantially different from the previously denied proposal.

13-9-11: REVOCATION OF APPROVALS AND/OR PERMITS:

- A. **Authority:** An approval or permit may be reconsidered and revoked by the land use authority that granted the permit in accordance with the procedures set forth herein if it is determined that the application, decision, approval or permit was based on materially inaccurate or incomplete information, or where the applicant is in violation of the issued permit or approval.
- B. **Duties of City Planner; Hearing:** If the City Planner determines, based on inspection by City staff, that there are reasonable grounds for revocation of a development permit approval authorized by this Title, the City Planner shall set a hearing before the land use authority that granted the permit.
- C. **Notice and Public Hearing:** Reasonable notice of the proceeding to revoke the development permit or approval shall be given to the applicant.
- D. **Required Findings:** The land use authority may revoke the development permit upon making one or more of the following findings:
 1. That the development permit was issued on the basis of erroneous or misleading information or misrepresentation provided by the applicant;
 2. That the terms or conditions of approval of the permit relating to establishment or operation of the use approved have been violated or

that other laws or regulations of the City, state, federal or regional agencies applicable to the development have been violated.

- E. **Decision and Notice:** Within ten (10) working days of the conclusion of the hearing, the land use authority shall render a decision, and shall notify the holder of the permit and any other person who has filed a written request for such notice in the manner provided herein.
- F. **Effect:** A decision to revoke a development permit shall become final ten (10) days after the date notice of the decision was given. After such effective date, all activities pursuant to such permit thereafter shall be deemed in violation of this Title.
- G. **Right Cumulative:** The City's right to revoke a development permit, as provided in this section, shall be cumulative to any other remedy allowed by law. Where an applicant is in violation of his permit, the City may deem it a violation of this Title and proceed under section 13-1-14 of this Title.

13-9-12: FAILURE TO COMPLY WITH CONDITIONS:

Approval of any development may be made with or without conditions, and the failure to fully abide by the terms of any conditional approval will result in a forfeiture of any vested property right associated with the development approval.

13-9-13: EFFECTIVE PERIOD OF APPROVALS:

- A. **Sketch Plan Review:** Upon the completion of a sketch plan review, a formal development application, as required in this Title, shall be submitted within six (6) months from the completion of the sketch plan review.
- B. **Preliminary Plan:** The approval of a preliminary plan, when required in this Title, shall be effective for a period of one year from the date of its approval. At the end of the one-year period, the applicant shall have submitted a complete application for final development review. If a complete final plan application is not submitted within one year, the preliminary approval shall be considered null and void, and the applicant shall be required to submit a new sketch plan and development application in accordance with the provisions of this Title in effect at that time.
- C. **Final Plan; Vested Right:** Upon approval of any final plan/plat, it shall constitute a vested right in the specific terms and proposals identified in the approval for a period of one year from the date of the approval, at which time the final plat shall be recorded in the office of the Summit County recorder. This provision reflects the City Council's position that no developer has a vested right in perpetuity, and that in the interest of the health, safety and general welfare, developers must

proceed with development approvals with due diligence. Therefore, development projects, including subdivision plats and site plans, which were approved before Oakley City adopted its first Zoning Ordinance in 1980, in which no development has taken place, are not entitled to vested rights under this Title. The establishment of a vested right does not exempt the property owner from requirements for building permits or other necessary permits. The establishment of a vested right shall not preclude the application from the requirements of the building code, fire code, plumbing code, electrical code, mechanical code or other requirements necessary for the protection of the public health, safety and welfare.

- D. **Development Permit Extension:** One 6-month extension of a development permit may be granted by the City Planner upon his finding that special circumstances exist which warrant such an extension, including, but not limited to, a delay caused by a government review agency or natural disaster.

13-9-14: ISSUANCE OF BUILDING PERMITS:

- A. **Water, Sewer and Access Requirements:** A building permit will not be issued for a new dwelling unit or commercial or industrial structure until all water, sewer/septic and access requirements are met.
- B. **Address:** An address in conformance with the City and/or County addressing system must be assigned before issuance of a building permit.
- C. **Lot Conformance:** Before a building permit can be granted to any property, the parcel/lot shall lawfully conform to all applicable provisions of this Title (lot of record). There are parcels/lots within Oakley City that, while their existence may be recorded in the office of the Summit County recorder, were not lawfully created in accordance with the laws of the City. The City will not issue a building permit for such parcels/lots.
- D. **Prior To Completion and Acceptance of Improvements:** Building permits may be issued for construction in subdivisions and other projects prior to the completion and acceptance by the City of the required property improvements, provided minimum access and safety standards can be met and a bond or escrow fund is estimated and established for the required infrastructure. In such cases, the City Planner or designated planning staff member may require that the applicant for building permit sign a statement indicating the following:
 - 1. The applicant is aware of the terms of the bond or escrow account established to guarantee completion of required improvements to the satisfaction of the City.
 - 2. There may be private infrastructure improvements required in the subdivision or project area, which may not be complete, over which the

City has no influence or authority regarding completion of work and that the applicant accepts the associated risk.

3. The applicant releases the City from liability for installation, maintenance or repair of the required public improvements until the same have been completed by the developer or under the terms of the escrow agreement, and accepted by the City.
4. The applicant assumes all risk in connection with construction on the subject property.

E. **Site Plan Requirements:** Three (3) copies of a site plan, a minimum size of eleven inches by seventeen inches (11"x17") (must be legible) and a maximum size of thirty-six inches by forty-eight inches (36"x48") shall be submitted with all building permit applications for all new construction, including additions, accessory buildings, and garages.

1. **Preparation of Site Plan:** If any of the following criteria apply, the site plan shall be prepared by a licensed surveyor, architect, landscape architect, or engineer, registered in the state of Utah:

- a. Parcels/lots that contain a designated building pad identified on a subdivision plat.
- b. Building areas or building pads having an average grade steeper than five percent (5%) (some elevation information may be required to verify grade).
- c. Proposed structure heights greater than twenty-eight feet (28').
- d. Proposed structure setbacks closer than three feet (3') to the required setback line, excluding decks, lean-tos, or other similar structures.

(1) Agricultural exempt buildings that comply with section 10-9a-605 of the Utah Code Annotated are excluded from these site plan requirements. However, agricultural exempt buildings closer than three feet (3') to the required setback line or are greater than twenty-eight feet (28') in height will require an inspection by the Planning department to ensure that setback and height requirements for the zone district in which they are located are being met.

- e. Parcels/lots that do not have existing property corners set by a licensed surveyor.

2. **Site Plan Information Required:** When the site plan is required to be prepared by a licensed surveyor, architect, landscape architect, or engineer, each copy shall be wet stamped by each professional involved in its preparation. Redline corrections/additions to the site plan or elevation page items may be accepted if determined by staff to be minor in nature. All corrections shall be approved by the person who stamped the site plan. The site plan shall contain the following information:

- a. Scale.

- b. North arrow.
- c. Information box showing the name of the applicant, subdivision and lot number or parcel number (tax identification number), address, section, township, and range, acreage (or square footage) of the lot or parcel.
- d. Map of the parcel. For parcels larger than one acre, provide large scale drawing of the entire parcel (i.e., vicinity map, 1 inch=100 feet), with bearing and distance calls, and a smaller scale (1 inch=20 feet), detailed map of the area of the parcel being developed. The map shall contain the following minimum information:
 - (1) Property lines, designated building pad, platted setback lines, rights of way and easements, all adjacent streets/roadways.
 - (2) Proposed setbacks of all new structures to the property lines.
 - (3) A topographical map prepared by a licensed surveyor including both existing and proposed contours. Two foot (2') minimum contour intervals are required for all parcels/lots which have an average grade greater than five percent (5%) (some elevation information may be required to verify grade) and/or structure heights that exceed twenty-eight feet (28') (measure from the ridgeline to existing grade). Existing contours must be shown through the proposed structures.
 - (A) For lots/parcels one acre or less in size, contours are required for the entire lot/parcel.
 - (B) For lots/parcels greater than one acre in size, contours are required one hundred feet (100') on each side of all proposed structures and all other areas of disturbance proposed for the lot/parcel, such as the driveway, accessory structures and yard areas. The contour map must include the opposite side of any existing roadway adjacent to the property.
 - (4) One fixed point near the proposed construction labeled "Benchmark" showing the elevation. The point may be a manhole cover, fire hydrant, or survey pin set so that it cannot be removed. The elevation of the point must be identified on a stake placed at or near the point.
 - (5) All elevations for the structure and driveway shall be referenced from the benchmark.
 - (6) All existing and proposed improvements including structures, driveways, and retaining walls.

- (7) All drainageways, ditches, streams, and wetlands within two hundred feet (200') of any proposed structure, area of disturbance and driveway, even if located on an adjoining parcel/lot.
- (8) The footprint of proposed structures. The footprint shall show roof ridgelines and their elevations.
- (9) The proposed driveway width.
- (10) Proposed elevations, including:
 - (A) Top of the foundation walls at four (4) major corners.
 - (B) Roof ridge elevation(s) from existing grade.
 - (C) Garage floor elevations.
 - (D) Center of the driveway at the street, at twenty feet (20') from the street, at each grade break and at the edge of the "flat" parking area outside the garage.
- (13) An erosion control plan including:
 - (A) Perimeter controls (straw wattle, straw bales, silt fence) on the downhill side of all disturbed areas when required by this Title.
 - (B) Stabilized construction access.
 - (C) Protection measures of adjoining drainage features including storm drain, ditches, streams, etc.
- (12) Construction mitigation plan that identifies the location of dumpster(s), portable toilet(s), material storage, and parking. The following notes shall be on the plan:
 - (A) Construction parking/traffic may not block the street without a permit.
 - (B) Mud tracked onto the street must be cleaned prior to the end of the workday.
 - (C) The construction site must be maintained in a neat manner. Trash and other debris may not accumulate outside the dumpster.
 - (D) Roadside parking is not allowed from November 1 through April 1.

3. **Site Plan Certification:** When a site plan is prepared by a licensed surveyor in conjunction with an architect, landscape architect, and/or engineer, the site plan must be certified by each of the professionals preparing the site plan for that portion of the plan that is their responsibility. The parcel/lot survey prepared and certified by the licensed surveyor, including topography may be submitted on a separate sheet from the site plan prepared by the architect, landscape architect, and/or engineer; however, all survey information from the parcel/lot survey shall be included on the site plan.

- a. A form of the following certifications must appear on the parcel/lot survey and/or site plan:

Surveyor Certificate

I, do hereby certify that I am a licensed Professional Land Surveyor registered in the State of Utah, license no. _____, as prescribed under the laws of Utah. I further certify that a survey of the land shown and described herein, and that the representation shown on the site plan is a correct representation of the land surveyed and has been prepared on conformity with the minimum standard and requirements of the Law.

Signature (over seal)

Date

Architect/Landscape Architect/Engineer Certificate

I, do hereby certify that I am a licensed Architect/Landscape Architect/Engineer registered in the State of Utah, license no. _____, as prescribed under the laws of Utah. I further certify that I am fully responsible for the design of the structure(s), structure location(s), driveway, drainage, and other improvements/development to the land shown on the site plan.

Signature (over seal)

Date

4. **Building Elevations Pages:** Two (2) copies of the building elevations pages must be submitted with all building permit applications. Plans shall provide elevation views of all four (4) sides of the building. These views shall identify where the existing and proposed grade lines will strike the building wall line. Top of foundation, floor lines, eave lines, and ridgelines shall be shown and referenced to the known point on the site plan.
5. **Certificate of Survey/Elevation:** A certificate of survey/elevation of the structure shall be submitted whenever a site plan is required to be prepared and certified by a licensed surveyor under the criteria set forth above. The certificate of survey/elevation must be prepared by a licensed surveyor registered in the state of Utah. The certificate must be submitted prior to receiving an inspection of the shear wall or the "four-way".
 - a. The certificate must verify the elevations of the top of foundation walls/roof ridge elevations with respect to the existing grades and the structure location, with respect to setbacks and shall contain the following information:

- (1) All property lines and building envelope (if applicable) when the parcel is one acre or less. When the parcel is larger than one acre, the two (2) closest property lines and building envelope (if applicable).
 - (2) Required setback lines.
 - (3) Structure footprint.
 - (4) Dimension lines from the structure to all shown property lines (see subsection F5a(1) of this section).
 - (5) "As constructed" top of foundation elevations or top of roof ridge elevations.
- b. An original wet stamped copy of the certificate of survey/elevation must be submitted to the building department and engineering department prior to requesting a shear wall inspection.
 - c. A form of the following certification must appear on the survey:

Certificate of Survey/Elevation

I, do hereby certify that I am a licensed Professional Land Surveyor/Engineer registered in the State of Utah, license no. _____, as prescribed under the laws of Utah. I further certify that I have reviewed the plans for Permit No. _____, located at (street address) - _____ on Lot _____ of the _____ Subdivision and have surveyed the property to verify that the structure is situated on the lot as shown on this map. I further certify that the elevations of the foundation walls and roof ridges are as shown on this map.

Signature (over seal)

Date

13-9-15: PROJECT CLOSURE DUE TO INACTION:

- A. Recognizing the length of the planning review process will vary with the size and complexity of each proposal, applicants must move their applications either to approval or denial in a reasonably expeditious manner. The City may close applications which remain inactive for nine (9) months or longer due to acts of omissions by the applicant.
 1. When the City Planner or designated planning staff member determines an application inactive, he/she may close the files with respect to the application. No application may be closed on the basis of inaction without giving twenty-one (21) calendar days' certified written notice to the applicant. Such notice must state the intent of the City Planner or designated planning staff member to have the project closed because of inaction and what the applicant must submit in order to maintain an active file status.

2. An application shall be deemed inactive and subject to closure on the basis of inactivity if, through the act or omission of the applicant and not the City:
 - a. More than nine (9) months have passed since the last meeting of staff and the applicant.
 - b. More than nine (9) months have passed since a request for additional information was made by staff, which request has not been complied with or reasons for noncompliance are not stated or indicated by the applicant.
 - c. The applicant is more than thirty (30) days in default of the payment of any fee assessed by ordinance.
 - d. The applicant has stated intent to abandon the project.

Delays caused entirely by internal delays of the City Planner or designated planning staff member, City Engineer, Planning Commission, City Mayor, City Council, or Appeal Authority shall not be a cause for file closure.

13-9-16: RESIDENTIAL CARE FACILITIES FOR THE ELDERLY OR DISABLED:

- A. A residential care facility for the elderly or disabled may not be established unless:
 1. A conditional use permit has been issued;
 2. Development review and approval of a final site plan has occurred and a building permit has been issued.

- B. Residential care facilities shall be permitted in accordance with the chart of allowed and conditional uses provided they are:
 1. Licensed or certified by the Utah State department of human services;
 2. Reasonably dispersed throughout the City and the facility is not within three-fourths (3/4) of a mile of another residential care facility for elderly persons or disabled;
 3. Limited by the number of occupants with a minimum of four (4) occupants. The maximum number of occupants shall be determined by the amount of bedrooms with no more than two (2) occupants per bedroom;
 4. The facility is capable of use as a residential care facility without structural alterations to an existing building or landscaping that would change the structure's residential character or impose adverse impacts to the residential neighborhood;
 5. The traffic flow will not negatively impact the existing residential neighborhood and adequate off-street parking space has been provided in accordance with the provisions of this Title;

6. No person being treated for alcoholism or drug abuse will be placed in a residential care facility for elderly persons;
7. Placement in a residential care facility for disabled and elderly persons is on a strictly voluntary basis and is not part of, or in lieu of, confinement, rehabilitation or treatment in a correctional facility.

13-9-17: HAZARDOUS LIQUIDS OR MATERIALS TRANSMISSION PIPELINES:

- A. **Purpose:** The purpose of this section is to mitigate the aesthetic and environmental impacts while minimizing potential damage to essential public facilities from hazardous liquids or materials transmission pipelines by:
1. Minimizing the likelihood of inadvertent or accidental damage from and to hazardous liquids or materials transmission pipelines due to external forces, such as construction activity, by ensuring early communication between those developing property and hazardous liquids or materials transmission pipeline operators.
 2. Minimizing the risk of injury or damage to essential public facilities in the event of a hazardous liquids or materials transmission pipeline failure.
 3. Mitigating potential adverse aesthetic impacts from the siting, construction, operation, and maintenance of a hazardous liquids or materials transmission pipeline.
 4. Ensuring adequate protection of the environment in the event of a hazardous liquids or materials transmission pipeline failure.
 5. Ensuring there is adequate protection of existing hazardous liquids or materials transmission pipelines from damage.
 6. Limiting the exposure of land uses with on-site populations that are difficult to evacuate, as well as land uses that serve emergency functions from the effects of a pipeline failure.
 7. Supplementing existing federal and state regulations related to transmission pipeline corridor management.
- B. **Applicability:** Regulations in this section apply to all proposed pipelines. Applications to install hazardous liquids or materials transmission pipelines shall be processed as conditional uses in all zone districts. To the extent any regulations within this section conflict with state or federal regulations or laws regulating hazardous liquids or materials transmission pipelines, those state or federal regulations and laws shall take precedence over these regulations. The City adopts by reference the definitions set forth in the hazardous liquid pipeline safety act of 1979, as amended, and recodified in 49 USC 601 and 49 CFR 190-199.

C. **Definitions:**

ESSENTIAL PUBLIC FACILITIES: Those public facilities which are required in order to provide basic health and safety services to residents and visitors of Oakley City, including, without limitation, water sanitation plants, water treatment plants, sewer treatment plants, water storage facilities, telecommunication towers, police stations, fire stations, jails, courthouses, public health facilities, and emergency operations centers.

HAZARDOUS LIQUIDS OR MATERIALS: Any hazardous or toxic waste, substance or material, including petroleum, petroleum products, and anhydrous ammonia as defined by the comprehensive environmental response, compensation and liability act, 42 USCA section 9601 et seq.; the hazardous materials transportation act, 49 USCA section 5101 et seq.; the resource conservation and recovery act, 42 USCA section 6901 et seq.; the toxic substances control act, 15 USCA section 2601 et seq.; the federal water pollution control act, 33 USCA section 1251 et seq.; the hazardous liquid pipeline safety act, 49 USCA section 60101 et seq.; the Utah safe drinking water act, Utah Code Annotated section 19-4-101 et seq.; the Utah water quality act, Utah Code Annotated section 19-5-101 et seq.; the Utah solid and hazardous waste act, Utah Code Annotated section 19-6-101 et seq.; 49 CFR 195.2, and any successor state or federal environmental laws which define hazardous substances. Hazardous material, without limiting the scope of the foregoing, shall include, without limitation, hazardous liquids as defined by 49 CFR part 195.2, but shall not include natural gas, including liquefied natural gas.

HAZARDOUS LIQUIDS OR MATERIALS TRANSMISSION PIPELINE CORRIDOR OR TRANSMISSION PIPELINE CORRIDOR: The pipeline pathway defined by rights of way and easements in which the pipelines and facilities of a hazardous liquids or materials transmission pipeline are located, including rights of way and easements over and through public or private property.

HAZARDOUS LIQUIDS OR MATERIALS TRANSMISSION PIPELINE OR TRANSMISSION PIPELINE: A pipeline, whether above or below ground, which transports or is designed to transport hazardous liquids or materials. As used herein, a transmission pipeline includes all parts of those physical facilities through which hazardous material moves in transportation, including pipes, valves, and other appurtenances attached to pipes, compressor units, pumping stations, metering stations, regulator stations, delivery stations, holders, breakout tanks, fabricated assemblies, and other surface pipeline appurtenances. A hazardous liquids or materials transmission pipeline includes a "hazardous liquid pipeline".

HIGH CONSEQUENCE LAND USE: A land use that if located in the vicinity of a hazardous materials transmission pipeline represents an unusually high risk to life

in the event of a transmission pipeline failure due to the characteristics of the inhabitants or functions of the use. High consequence land uses include:

1. Commercial childcare;
2. Houses of worship, including churches and other religious institutions;
3. Hospitals;
4. Residential care facilities;
5. Institutional uses including private schools and public or quasi-public buildings; and
6. Essential public facilities.

JURISDICTIONAL WETLANDS: An area delineated and approved as a wetland by the United States army corps of engineers consistent with Utah Code Annotated section 10-9a-520.

MANMADE OR NATURAL RESERVOIR: A natural or artificial water body where water is collected and stored for use.

QUASI-PUBLIC BUILDINGS: Buildings that are open to the general public.

SOURCE PROTECTION ZONE: The surface water source protection zones designated as water source protection zone 1, zone 2 and/or zone 3, as set forth in Utah Department of Environmental Quality, Division of Drinking Water Rules.

TRANSMISSION PIPELINE OPERATOR: The company or person responsible for the operation, maintenance and management of the transmission pipeline.

D. **Development Standards for the Construction of New Hazardous Liquids or Materials Transmission Pipelines:**

1. **Hazardous Liquids or Materials Transmission Pipeline Corridor:** A fifty-foot (50') easement or right of way (or such other widths as shall be approved and accepted by the City Planner and City Engineer for any given property along the course of the transmission pipeline, based upon individual topographical and/or site condition requirements) shall be recorded in the office of the Summit County Recorder for all new hazardous liquids or materials transmission pipelines.
2. **Setbacks:** In order to mitigate the aesthetic and environmental impacts of hazardous liquids or materials transmission pipelines, while minimizing potential damage or interruption to essential public facilities caused by transmission pipelines, the following setbacks shall be observed:
 - a. Except as set forth in subsection D3 of this section or unless approved by the City Engineer as part of the conditional use permit process, where adequate mitigation measures have been demonstrated by the applicant to the satisfaction of the City

engineer, hazardous liquids or materials transmission pipeline corridors shall not be located closer than two thousand five hundred feet (2,500') in zone 1, one thousand feet (1,000') in zone 2, and five hundred feet (500') in zone 3, from the Weber River and its tributaries, as set forth in the established source protection zone. However, conditions such as slope and terrain may require additional mitigation as identified in the conditional use permit process.

- b. Except as set forth in subsection D3 of this section, hazardous liquids or materials transmission pipelines shall not be located closer than one hundred feet (100') from: 1) any jurisdictional wetland, and 2) any year-round naturally occurring creek, stream, river, private or public well, or pond, unless approved by the City Engineer as part of the conditional use permit process where adequate mitigation measures have been demonstrated by the applicant.
- c. An aboveground hazardous liquids or materials transmission pipeline facility or appurtenance shall not be located closer than one thousand feet (1,000') from any high consequence land use structure or essential public facility structure, unless otherwise approved by the City engineer based upon independent modeling.

3. **Basis of Conditional Use Permits:** Crossings of jurisdictional wetlands, year-round naturally occurring creeks, streams, ponds, the Weber River and its tributaries, or manmade or natural reservoirs along the Weber River may be allowed as part of the conditional use permit process, on the following basis:

- a. Open cut trench excavation of jurisdictional wetlands, and year-round naturally occurring creeks, streams, rivers or ponds (except for the Weber River, and natural or manmade reservoirs along the Weber River) based upon the best engineering practices is permitted at the discretion of the City Engineer. However, if in the opinion of the City Engineer, circumstances warrant, horizontal directional drilling or jack and bore construction methods as set forth in subsection D3b of this section may be required.
- b. Crossing of the Weber River, or natural or manmade reservoirs along the Weber River, unless otherwise approved by the City Engineer, shall be by horizontal directional drilling or jack and bore construction methods. Jack and bore sending and receiving pits must be located outside of the 10-year frequency storm limits and/or the required clearance distances from the thalweg, whichever is greater, and must have the approval of the FEMA floodplain administrator if within the one percent (1%) chance annual floodplain (100-year storm). Directional drilling pits shall be constructed well beyond the top of the bank. A soils engineering report and/or engineering geology report may be required at the

discretion of the City Engineer. Armoring of the pipeline may be required as determined by hydraulic modeling and approved by the City Engineer. The consultant designing the crossing shall assure proper depth of utility to prevent exposure from localized scouring caused by improvements in the stream corridor. Applicant shall coordinate with the local floodplain administrator to determine appropriate scour protection depths. Pipeline minimum depth is ten feet (10') under channel grade to the top of the pipeline.

- c. City Engineer shall review the engineering spill analysis and associated hydraulic reports and may require additional isolation valves immediately adjacent to both sides of jurisdictional wetlands, year-round naturally occurring creeks, streams, rivers, ponds, the Weber River, or manmade or natural reservoir crossings in order to minimize spills or leaks.
4. **Design Techniques:** Every effort shall be made so that pipeline related equipment enclosures and other structures shall be appropriately designed to mitigate their visual impact on the natural environment. This may include stealth design techniques and/or other visual screening methods as approved by the City.
5. **Applicability:** Unless otherwise modified by this section, all criteria set forth in section 13-3-4, "Natural Resources" and section 13-3-5, "City Infrastructure, Facilities and Services", of this Title shall apply to hazardous liquids or materials transmission pipelines.
 - a. In the event that it becomes necessary for a hazardous liquids or materials transmission pipeline to traverse a hillside or natural grade slope of greater than thirty percent (30%), adequate mitigation shall be required to ensure the alignment is sensitively sited so as to encourage stabilization of the disturbed slopes, minimize excavation, and the conservation of the natural appearance and grade of the hillside. The transmission pipeline alignment shall be integrated into the site, using topography, vegetation and other reasonable techniques, in a manner that causes it to blend into the hillside.

13-9-18: LIGHTING AND DARK SKY REGULATIONS:

- A. **Purpose:** The purpose of this Section is to:
 1. Balance the environmental and sustainability goals set forth in the Oakley City General Plan with the need to provide safe lighting practices.
 2. To minimize light pollution for the enjoyment of the City's residents and visitors.
 3. To prevent the degradation of the nighttime visual environment by production of unsightly and dangerous glare;

4. To create lighting practices that promote the health and safety of the City's residents and visitors (including healthy sleep) as well as the safety of wildlife and livestock;
5. To prevent unnecessary waste of energy and resources in the production of excessive light or wasted light;
6. To prevent interference in the use or enjoyment of property which is not intended to be illuminated at night and the loss of the scenic view of the night sky due to increased urban sky-glow and light trespass.

B. **Applicability:** All exterior outdoor lighting installed after the effective date of this section in all zones in Oakley City shall conform to the requirements established by this section.

1. This section does not apply to indoor lighting.
2. All existing outdoor lighting that does not meet the requirements of this section and is not exempted by this section shall be considered a nonconforming use and as such shall be regulated as outlined in section 13-9-2 of this chapter.
3. Should this Chapter be found to be in conflict with other sections of this Code, or a Development Agreement, Settlement Agreement or other regulation, the more restrictive shall apply.

C. **Amortization of Nonconforming Outdoor Lighting:**

Amortization: The City shall require the termination of use of any and all nonconforming outdoor lighting fixtures, structures, lamps, bulbs or other devices that emit or generate light which are not otherwise exempted by this Section, pursuant to the amortization schedule contained in this Section.

Schedule of Amortization: All outdoor lighting legally existing and installed prior to the effective date of this Section and which is not exempted shall be considered nonconforming and shall be brought into compliance by the property owner as follows:

1. Immediate abatement as a condition for approval upon application for a building permit, sign permit, conditional use permit, design development review or similar City permit or review when said site improvements, construction, reconstruction, expansion, alteration or modification of existing sites, structures, or uses individually or cumulatively equal or exceed one thousand five hundred (1,500) square feet. Projects less than one thousand five hundred (1,500) square feet will not be subject to immediate abatement.
2. All damaged or inoperative nonconforming lighting shall be replaced or repaired only with lighting equipment and fixtures compliant with this chapter.

3. All outdoor lighting not previously scheduled for amortization or otherwise exempted shall be brought into conformance with this chapter within five (5) years from the effective date of this chapter.

D. **Application and Review Procedures:** All Development Permit applications or submittals that propose exterior outdoor lighting or street lighting shall include a lighting plan that shows evidence that the proposed lighting fixtures and light sources comply with this Section and shall include the following:

1. Plans or drawings indicating the proposed location of lighting fixtures, height of lighting fixtures on the premises, and type of illumination devices, lamps, supports, shielding and reflectors used and installation and electrical details.
2. Illustrations, including but not limited to a manufacturer's catalog cuts, of all proposed lighting fixtures. For commercial, resort and industrial uses, photometric diagrams of proposed lighting fixtures are also required. In the event photometric diagrams are not available, the applicant must provide sufficient information regarding the light fixture, lumens, degrees kelvin, and shielding mechanisms for the Planning Commission or Community Development Director to be able to determine compliance with the provisions of this Section.
3. A table showing the total number of proposed exterior lights, by fixture type, degrees kelvin, lumens, and lamp type.

E. **Full Cutoff Fixture Requirements:**

1. Unless specifically exempted by this Section, all outdoor lighting shall use full cutoff fixtures and shall be installed so light is directed downward with no light emitted above the horizontal plane of the fixture (See Figures).
2. Lighting must not be placed at a location, angle, or height that directs illumination or horizontal trespass outside the property boundaries where the light fixtures are located.
3. In order to qualify as a "full cutoff" fixture, a light fixture must have the top and sides made of completely opaque material so that light only escapes through the bottom of the fixture. Fixtures with translucent or transparent sides, or sides with perforations or slits, do not qualify as full cutoff. Any glass or diffuser on the bottom of the fixture must be flush with the fixture (no drop lenses). Merely placing a light fixture under an eave, canopy, patio cover, or other similar cover does not qualify as full cutoff.
4. **Exemptions to Full Cutoff Fixture Requirements:** Fixtures having a total light output less than one thousand (1,000) lumens (allowing a maximum of a 60-watt incandescent a 15 watt compact fluorescent bulb or LED equivalent) are exempted from the full cutoff requirement provided:
 - a. The fixture has a top that is completely opaque such that no light is directed upwards.

- b. The fixture has sides that completely cover the light source and are made of opaque or semi opaque material. Fixtures with opaque sides may have incidental decorative perforations that emit small amounts of light.
 - c. Semi opaque material such as dark tinted glass or translucent plastic may be used if the light source is not discernable behind the material.
 - d. Completely transparent materials, such as clear glass, are not allowed.
 - e. The bulb or lamp must not be visible from any point outside the property on which the fixture is located.
- F. **Light Trespass Standard:** All light fixtures, including security lighting, shall be aimed and shielded so that the direct illumination shall be confined to the property boundaries of the source. Motion sensing light fixtures shall be fully shielded and properly adjusted, according to the manufacturer’s instructions, to turn off when detected motion ceases.
- G. **Ridgeline Development:** In certain cases (such as, but not limited to, steep topography, significant changes in grade, Development in The Sensitive Lands Overlay Zone District, or Development affecting identified ridgelines), additional shielding may be required to mitigate glare or light trespass. The need for additional shielding will be considered as part of the review processes described in section this Title.
- H. **Exemptions:** The following shall be exempt from the requirements and review standards of this Section:
- 1. Holiday lighting: Winter holiday lighting which is temporary in nature and which is illuminated only between and including November 15 and March 1 shall be exempt from the provisions of this Chapter, provided that such lighting does not create dangerous glare on adjacent streets or properties, is maintained and does not constitute a public hazard.
 - 2. Traffic control signals and devices.
 - 3. Temporary emergency lighting in use by law enforcement or government agencies or at their direction.
 - 4. The lighting of federal or state flags, provided that the light is a narrow beam aimed and shielded to illuminate only the flag. Flag lighting should use appropriate illumination levels (1,500 lumens or less) to light the flag, while at the same time fulfilling the purposes of this Section.
 - 5. Low voltage LED lights and solar lights used to illuminate pathways in residential areas, provided the lights are installed no more than eighteen inches (18") above the adjacent ground level and are downward directed.
 - 6. Agricultural Lighting: Lighting for agricultural activities or agricultural buildings as defined in appendix A of this Title is exempt from the

requirements of this section, provided such lighting is down directed and shielded to prevent glare to the level of a nuisance on adjacent streets or properties.

- I. **Prohibited Lighting:** The following types of lights are prohibited:
1. Floodlights or spotlights affixed to buildings for the purpose of lighting parking lots or sales display lot areas.
 2. Architectural lighting intended to accent or draw attention to architectural features of a building or structure.
 3. Landscape lighting intended to accent or draw attention to landscape elements of the property.
 4. Search lights, laser source lights or any similar high intensity lighting is prohibited except in emergencies by police and fire personnel or at their direction.
 5. Up lighting to illuminate buildings and other structures.
 6. Flashing, blinking, intermittent or other lights that move or give the impression of movement.
 7. Neon or luminous tube lighting except as permitted in Commercial zones by a low impact or conditional use permit.
 8. Window display lighting between the hours of 10 p.m. and 7 a.m.
 9. Electronic message signs or billboards. Exceptions are made for signs owned or operated by the City or other governments for public safety purposes.
- J. **Color Temperature:** The maximum correlated color temperature for Outdoor Light Fixtures is as follows (Color temperature is a way to describe the light appearance provided by a light fixture. It is measured in degrees of kelvin on a scale from 1,000 to 10,000):
1. All lighting shall make use of lamps whose correlated color temperature does not exceed 3,000 degrees kelvin. To reduce the amount of blue light within the lighting spectrum, the goal of the City is that all new lighting subject to this Section will strive to implement color temperatures of 2,200K to 2,700K (softer light that appears more amber in color). This color approximates older high pressure sodium style lighting fixtures. Some lighting systems may also utilize filters which are designed for the fixture to achieve this level.
 2. The correlated color temperature of lighting may exceed 3,000 degrees kelvin in situations where the Planning Director determines that accurate color rendition is crucial to public safety or the activities of law enforcement. In no case shall the correlated color temperature of such critical lighting exceed 5,000 degrees kelvin.

K. **Lumens per Fixture:** The maximum lumens allowed for Outdoor Light Fixtures are as follows (The acceptability of a particular light is decided by its Lumen output, not wattage; check manufacturer’s specifications):

1. For single-family residential Uses, fixtures up to 2,000 Lumens output per lamp.
2. For commercial, industrial, Resort, and Multi-Family Uses, fixtures up to 2,500 lumens output per lamp.
3. The total outdoor light output, excluding streetlights used to illuminate public Rights-of-Way, shall not exceed the following limits averaged over the entire project (values listed are total initial lamp Lumens per Acre and per residence):
 - a. For Single-Family Detached Dwellings and Duplexes the maximum outdoor light output shall not exceed 20,000 lumens per residence.
 - b. For commercial, industrial and multi-family Dwelling Units the maximum outdoor light output shall not exceed 100,000 lumens per acre. Allowed lumen output shall correspond with the size of the Parcel, for example a Parcel that is .75 acres shall have a maximum output of 75,000 lumens, or a parcel that is 1.5 acres shall have a maximum output of 150,000 lumens.
4. Mounting Height: The total outdoor light output shall not exceed the following limits when mounted at the heights prescribed below:

Mounting Height (Feet)	Maximum Lumens Allowed
6	1,000
8	1,600
10	2,000
12 or above	2,500

L. **Specific Requirements for Lighting Applications and Fixtures:** These fixtures shall be located at the necessary distance from property boundary in order to ensure light does not trespass onto adjacent properties. The Applicant shall demonstrate appropriate placement on the required lighting plan.

1. **Wall Mounted Area Lighting:** All wall mounted or building mounted fixtures shall not exceed twelve feet (12') above Finished Grade, measured directly below the light fixture. In cases where there is second Story access directly from the outdoors, a single fixture may be placed above or adjacent to the access.
2. **Parking Lot Lighting:**
 - a. Pole top mounted fixtures shall not be mounted more than sixteen feet (16') above Finished Grade, as measured to the top of the fixture or a horizontal plane being lit by the fixture.
 - b. All parking lot lighting shall use full cutoff fixtures.

- c. All pole top mounted parking lot lights shall be set back from property lines a distance equal to two and one-half (2 ½) times the height of the pole.
 - d. Pole mounted fixtures shall be limited to two light sources per pole.
 - e. Spot or flood lighting of parking lots from a building or other structure is prohibited.
 - f. On parking lots greater than one (1) acre in size, programmable full cut off fixtures shall be used. These fixtures shall be dimmable and paired with motion sensors that are incorporated into the lighting system.
3. **Walkway/Pathway Lighting:** All pathway pole top symmetric distribution fixtures shall not be mounted more than ten feet (10') above Finished Grade directly below the fixture, as measured to the top of the fixture.
4. **Roadway Lighting:** Streetlights are prohibited unless required by the City of Oakley, the Summit County Public Works Director, or required by UDOT to ensure the safety of the public. All streetlights shall utilize lamp types that are energy efficient and minimize sky glow and other unintended impacts of artificial lighting and feature the lowest illumination design that meets the minimum illumination requirements set by UDOT shall be used.
5. **Gas Station Canopies:**
- a. Lighting levels on gasoline station canopies shall be to illuminate the activities taking place under the canopy, not to attract attention to the business.
 - b. Gas station canopies may be illuminated provided all light fixtures are mounted on the undersurface of the canopy and all light fixtures are full cutoff. Light fixtures mounted on canopies shall be recessed so that the lens cover is recessed or flush with the bottom surface of the canopy and/or shielded by the fixture or the edge of the canopy.
 - c. The undersurface of the canopy shall be nonreflective (built or painted with low reflectivity colors or materials).
6. **Soffit Lighting:**
- a. For Detached Single-Family Dwellings if lighting an area with fixtures mounted in the soffit of a building, the fixture cannot be mounted above twelve feet (12'), as measured from the fixture to Finished Grade.
 - b. For commercial, industrial and Multi-Family Dwellings, If lighting an area with fixtures mounted in the soffit of a building, the fixture cannot be mounted above twenty feet (20'), as measured from the fixture to Finished Grade.
 - c. Light fixtures mounted on soffits shall be recessed so that the lens cover is recessed or flush with the bottom surface of the soffit and/or shielded by the fixture or the edge of the soffit.

7. **Lighting for Public Outdoor Recreation and Athletic Facilities:**
- a. The recreational lighting has provisions for minimizing glare, spill light and up light by the use of louvers, hoods, or shielding.
 - b. The recreational lighting will only illuminate the field or court area with no direct illumination falling outside of those areas.
 - c. Pole mounted recreational lighting shall be limited to eighteen feet (18') in height.
 - d. Pole mounted recreational lighting must be set back a minimum of sixty feet (60') from adjacent residential properties.
 - e. Lighting for sports fields should be shut off no later than eleven o'clock (11:00) P.M. unless a temporary use permit has been issued by the City Planner.
 - f. The lighting for non-field and non-court areas shall conform to all provisions of this Chapter.
 - g. **Exemption:** Because of their unique requirements for nighttime visibility and their limited hours of operation, lighting fixtures for baseball diamonds, playing fields, tennis courts, and rodeo arenas may exceed the eighteen foot (18') height limit subject to the following:
 - (1) Planning Commission review. All applications for pole height greater than eighteen feet (18') shall be reviewed by the Planning Commission.
 - (2) In no case shall any lighting fixture exceed seventy feet (70') in height as measured from the top of the fixture to the adjacent grade or the horizontal plane being lit by the fixture.
 - (3) Lighting fixtures shall be subject to all other requirements in this Chapter.
8. **Lighting for Private Outdoor Recreation and Athletic Facilities:**
- a. The recreational lighting has provisions for minimizing glare, spill light and up light by the use of louvers, hoods, or shielding.
 - b. The recreational lighting will only illuminate the field or court area with no direct illumination falling outside of those areas.
 - c. The light source for the recreational light will not be visible from adjacent properties.
 - d. Pole mounted recreational lighting shall be limited to eighteen feet (18') in height.
 - e. Pole mounted recreational lighting must be set back a minimum of sixty feet (60') from adjacent properties.
 - f. Lighting for sports fields should be shut off no later than eleven o'clock (11:00) P.M.
 - g. The lighting for non-field and non-court areas shall conform to all provisions of this Chapter.
9. **Towers:**

- a. All monopole, antenna, tower or support facility lighting not required by the Federal Aviation Administration (FAA) or the Federal Communication Commission (FCC) is prohibited.
- b. When lighting is required by the FAA or the FCC, such lighting shall not exceed the minimum requirements of those agencies. Collision markers should have a dual mode for day and night to minimize impact to the night sky and migrating birds.
- c. All other lighting used on the property not regulated by the FAA or FCC shall conform to this Chapter.

M. Lighting Figures:

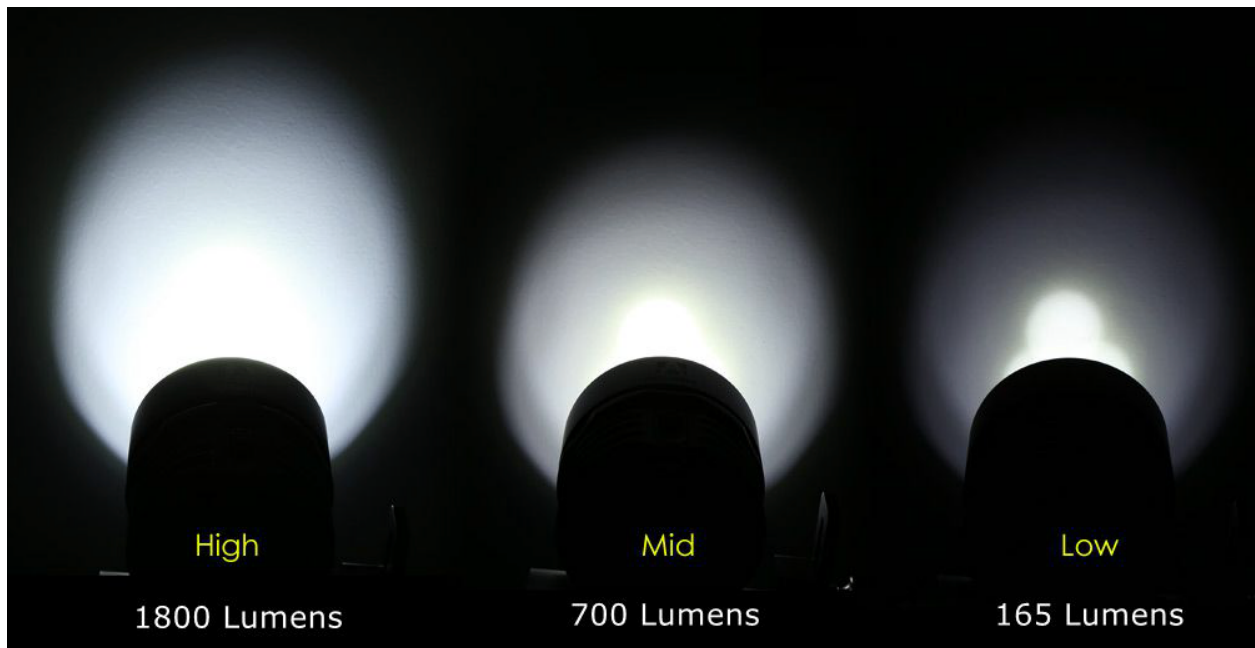


Figure 9-18-1 Lumen Examples



Figure 9-18-2 Color Temperature Example (degrees Kelvin)

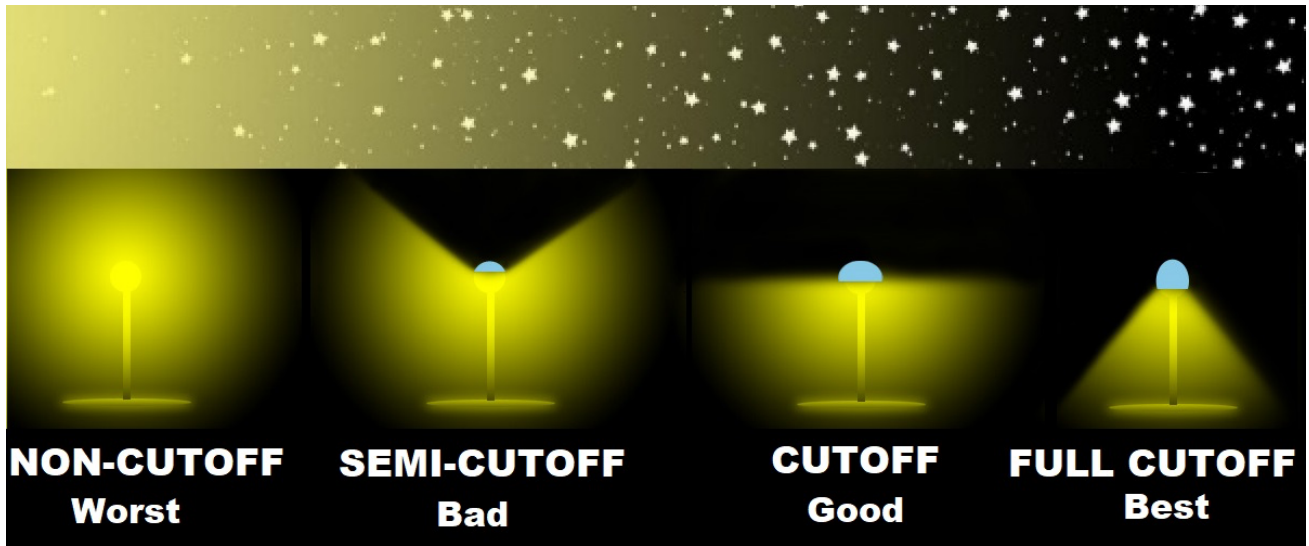
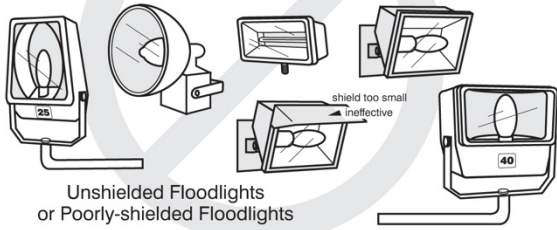


Figure 9-18-3 Non-Cutoff to Full Cutoff

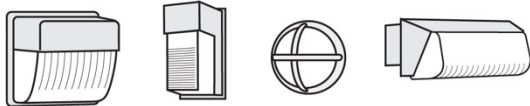
Examples of Acceptable / Unacceptable Lighting Fixtures

Unacceptable / Discouraged

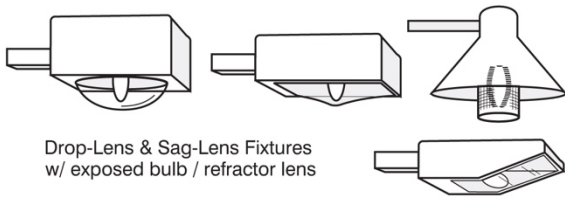
Fixtures that produce glare and light trespass



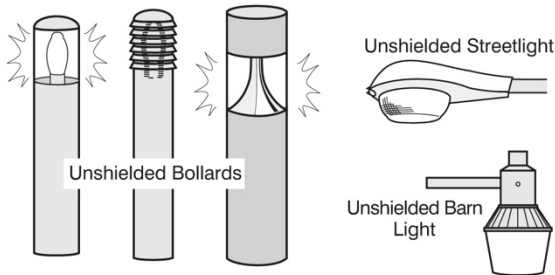
Unshielded Floodlights or Poorly-shielded Floodlights



Unshielded Wallpacks & Unshielded or Poorly-shielded Wall Mount Fixtures



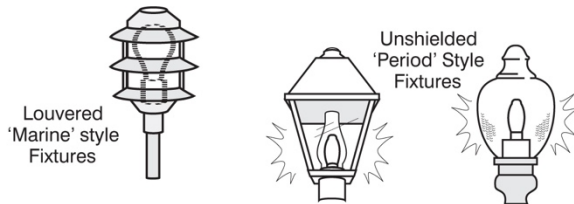
Drop-Lens & Sag-Lens Fixtures w/ exposed bulb / refractor lens



Unshielded Bollards

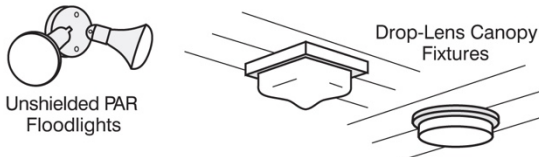
Unshielded Streetlight

Unshielded Barn Light



Louvered 'Marine' style Fixtures

Unshielded 'Period' Style Fixtures

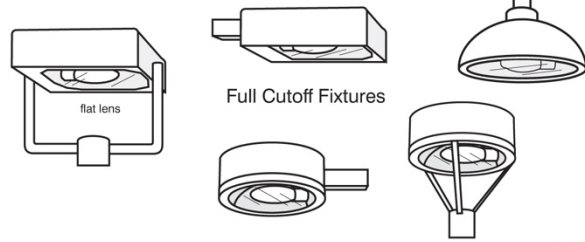


Unshielded PAR Floodlights

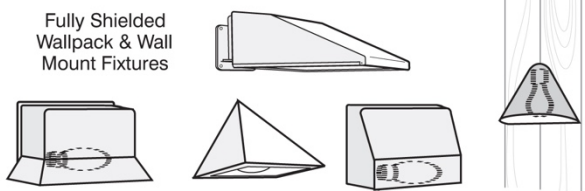
Drop-Lens Canopy Fixtures

Acceptable

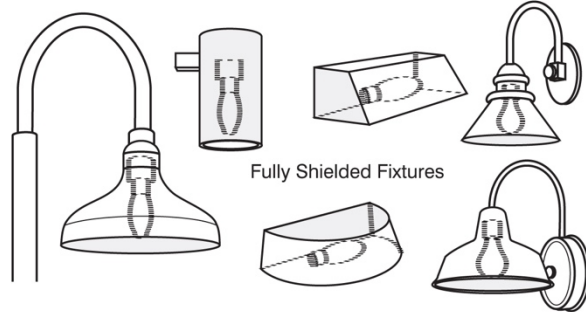
Fixtures that shield the light source to minimize glare and light trespass and to facilitate better vision at night



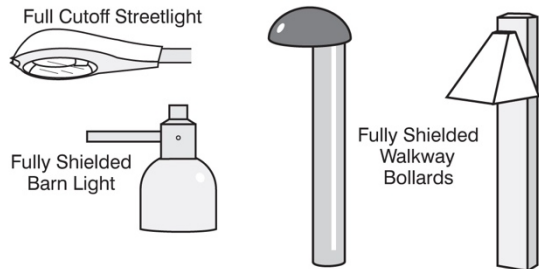
Full Cutoff Fixtures



Fully Shielded Wallpack & Wall Mount Fixtures



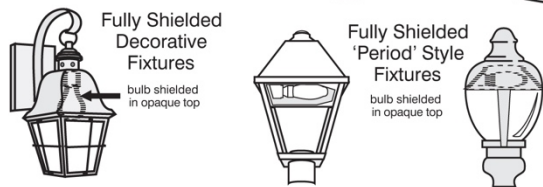
Fully Shielded Fixtures



Full Cutoff Streetlight

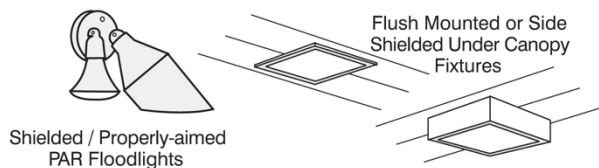
Fully Shielded Barn Light

Fully Shielded Walkway Bollards



Fully Shielded Decorative Fixtures

Fully Shielded 'Period' Style Fixtures



Shielded / Properly-aimed PAR Floodlights

Flush Mounted or Side Shielded Under Canopy Fixtures

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Figure 9-18-4 Examples of Good and Bad Fixtures



Figure 9-18-5 Example of Poor Landscape Lighting



Figure 9-18-6 Example of Poor Architectural Lighting



Figure 9-18-7 Example of Poor Up Lighting

13-9-19: ADAPTIVE REUSE OF HISTORICALLY SIGNIFICANT STRUCTURES:

Historically significant buildings are valued in Oakley City based upon their contribution to the general welfare, aesthetics and values of property and historical education of Oakley City. Historically significant buildings tell the story of Oakley City and provide architectural and/or cultural significance. The purpose of these regulations is to provide for the adaptive reuse of a historically significant building with a new use that meets the criteria set forth in this Code.

- A. **No Increase in Density:** No increase in density above those uses in the underlying zoning district is or shall be granted through these provisions except as provided for by this section.
- B. **Use Must Be Contained Within the Historic Structure:** The adaptive reuse of a historically significant building must be confined to the building itself.
 - 1. **Exception:** The adaptive reuse may include exterior patios and decks, provided they are associated with the use, and the patios and decks do not detract from the historical character of the building.
- C. **Determination of Historic Significance Required:** Prior to any review for an adaptive reuse of the property, the property owner must demonstrate that the structure is "historically significant". Determinations of historical significance shall be made by the Planning Commission, who must find that the structure or building meets at least one of the following definitions set forth in subsection D of this section.

- D. **Historically Significant Within Oakley City Is Defined As:**
1. The building or structure is identified with important events of Oakley City history, or exemplifies significant contributions to the broad cultural, economic or social history of Oakley City;
 2. Is associated with the lives of historic personages important to Oakley City history; or
 3. Embodies the distinctive characteristics of a style, type, period, or method of construction; or represents a notable work of a master designer, builder, or architect whose individual genius broadly influenced Oakley City.
- E. **Additional Uses Allowed:** In addition to the allowed, conditional and low impact uses designated in the underlying zoning district, the following uses may be approved as a conditional use in a historically significant building in any zoning district:
1. Professional office;
 2. Restaurant; and
 3. Retail commercial establishments.
- F. **Qualifying Provisions:** In order to qualify for conditional use review under section 13-5-7, "Conditional Use Permits", of this Title, the applicant must first demonstrate compliance with all of the following to the Planning Commission:
1. The building is designated as historically significant by the Planning Commission. The designation process must be completed prior to the City accepting a conditional use permit application for the structure unless the City Planner determines that it is in the best interest of the City to process the designation and conditional use permit applications together.
 2. The adaptive reuse will require minimal physical change to the building as these features are important in defining the overall historic character of the building and environment.
 3. The adaptive reuse is contained entirely within the historically significant structure, unless specifically excepted in subsection B1 of this section.
 4. If applicable, significant archaeological resources affected by the project shall be protected and preserved. If such resources, for the adaptive reuse, must be disturbed, mitigation measures may be undertaken and approved by the City Planner. Disturbances to archaeological resources shall be kept to a minimum.
 5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize the property shall be preserved.
 6. The adaptive reuse will not have a material net cumulative adverse impact on the neighborhood or the City due to:
 - a. Traffic;
 - b. Parking;
 - c. Signs;

- d. Lighting;
- e. Removal of landscaping; and
- f. Noise, fumes or odors.

G. **Deed or Restrictive Use Covenant Required:** As a condition of the adaptive reuse of a historically significant structure conditional use permit, the property owner shall record a deed or restrictive use covenant to benefit the City, which protects the historical structure from demolition and changes contrary to the intent of the preservation of historical structures provision herein.

13-9-20: TEMPORARY HOMES, TINY HOMES, TOURIST HOMES, AND NIGHTLY RENTALS:

This section addresses non-typical dwellings and the commercial short-term nightly rental of units for periods less than one month at a time.

A. **Definitions:**

MANAGING AGENCY OR AGENT: A local person, firm or agency, whether local, distant, or online, representing a tourist or nightly homeowner. The responsible party must be available by telephone twenty-four (24) hours per day for contact by renter, emergency services, and applicable Oakley City representatives.

PARK MODEL RECREATIONAL VEHICLES (PMRV): Transportable enclosed structure built on a single chassis, mounted on axel(s) and wheels. Generally designed and constructed as temporary human occupancy housing accommodation for recreation, camping or seasonal use. They do not meet HUD standards for construction and manufacturing. PMRV's are typically a "Tiny Home", or stick-built structure constructed on a single chassis and mounted on axel(s) and wheels. A PMRV is not permitted as an accessory dwelling. They may be approved as a temporary use permit for campgrounds in approved rural recreation grounds and facilities for stays exceeding 30 days.

RECREATIONAL VEHICLE (RV): A vehicle, regardless of size, which is not designed to be used as a permanent dwelling, and in which the plumbing, heating and electrical systems contained therein may be operated without connection to outside utilities and which are self-propelled or towed by a light duty vehicle. Designed for recreational use, camping or temporary occupancy. An RV is not permitted as an accessory dwelling or rented as nightly rentals. RV's require a temporary use permit for long-term (exceeding 30 days) occupancy on private property or privately permitted campgrounds in the City. City Campgrounds are regulated by appropriate City rules and regulations.

RECREATION, COMMERCIAL OUTDOOR: Any business, group or individual that receives monetary gain for providing specialized equipment, guided tours, access

to private land, and outdoor activities and adventure. Including but not limited to skiing, boating, fishing, canoeing, rafting, climbing, canyoneering, horse rides, ATV riding, mountain biking, and four wheeling.

RURAL RECREATION GROUNDS AND FACILITIES: Facilities for use by owner, operating organization, members and/or paying or non-paying guest. Facilities may include amenities such as cabins, lodges, reception centers, social halls, campgrounds, swimming pools, tennis and pickle ball courts, golf course, petting zoos, fishing ponds, recreational vehicle pads, temporary structures or enclosures such as tents, park models, yurts or other facilities designed for short term stays. Facilities may include single-family dwellings if the dwellings are under the same ownership or operating organization.

TEMPORARY STRUCTURE OR ENCLOSURE: Any moveable, tent-like structure or enclosure intended as a temporary dwelling such as a tent, yurt, tepee, RV, trailer, park models; or any moveable structure intended to provide protection from the elements such as a temporary garage or storage unit (not exceeding 90 days). Such temporary enclosures are considered structures under this definition, and as such are governed by the same setback requirements as other structures. Such uses are allowed under a Low Impact Permit use in Open Space, Commercial, Agricultural Zones, Rural Residential Zones, Forestry Zone, Public Facilities Zones, and in approved campgrounds and where rural recreation grounds and facilities have been approved. Tents set up for special occasions are specifically exempted from this definition unless used as a dwelling or for storage as listed above. Tent type structures for long-term residential type habitation or nightly rentals can only be allowed through a conditional use permit and must conform to this Title, meet Summit County Health department codes, are placed and secured properly on a permanent foundation, are tied to water and sewer (or septic as approved by the Summit County Health Department), and have all other necessary utilities and emergency access to provide for a safe environment.

TINY HOME: A tiny home is any home which is 400 square feet or less of living space, mounted on a permanent foundation, connected to permanent utilities, provided with essential sanitation facilities, and meet applicable building codes and regulations. Tiny homes are permitted under a Low Impact Permit as an accessory dwelling unit (wherever accessory dwelling units are allowed), provided they blend into the architecture and landscapes of the adjoining residence as much as possible. Tiny homes may not be less than 140 square feet of living space.

TOURIST HOME: An establishment used for short term dwelling purposes in which the entire dwelling or rooms within a dwelling, with or without meals, are rented or otherwise made available to transient guests for compensation; including establishments listed, or advertised online, or known as bed and breakfasts or nightly rentals. Some accessory dwelling units may be permitted as

a tourist home. All tourist homes shall fit the zone specified in 13-4-19 and shall be required to register their business with the state, obtain a business license and a low impact permit from the City, and complete the tourist home rental application with the City. The license or permit for such use may specify conditions, such as the maximum number of guests or vehicles allowed, etc. The licensee for tourist homes shall be the homeowner who shall be deemed the responsible party for the tourist home. All tourist homes must have an on-site or off-site managing agent, approved by the City and with full contact information on file with the City, who will serve as the primary contact for the tourist home. All tourist homes shall be properly managed by a readily accessible managing agent or live-in proprietor. As a condition to holding a valid business license for a tourist home, or homes, the licensee agrees to provide or arrange for adequate property management services including: housekeeping, yard maintenance, structural maintenance and compliance with general building health and safety requirements, trash collection which ensures that trash cans are not left on the street for any period in excess of twenty-four (24) hours, and assurance and enforcement of guests meeting the requirements of good neighbor practices. Good neighbor practices include: no loud music, unruly parties, guest vehicles shall be parked on off street parking and be courteous to neighbors. Failure to comply by the above-mentioned rules may result in a citation, fines and/or the business license being revoked.

- B. Regulation of Nightly Rentals:** All nightly rental Homes or Units must be inspected by the Building Department and issued a City business license before being offered for rent.
1. **Licensee:** The business licensee for rentals under this Section shall be the owner. The local representative shall be deemed the responsible party.
 2. **Management Standards:** The authorized lodging must be properly managed. As a condition to holding a valid license, the licensee agrees to provide or arrange for adequate property management services. In the event an owner's association exists, it shall be responsible for property maintenance. In the event an owner agrees to be responsible for property maintenance, the licensee must present a statement to that effect signed by the owner. The minimum services and management regulations required include:
 - a. Snow removal during winter months to a level that allows safe access to the building over the normal pedestrian access to the Unit;
 - b. Snow removal service to off-street parking facilities associated with the rental property so that off-street parking is at all times available for occupant use;
 - c. Summer yard maintenance, including landscaping, weed control, and irrigation to a level that is consistent with the level of landscaping and maintenance on adjoining and nearby properties;

- d. Structural maintenance to preserve substantial code compliance as described herein is required;
 - e. Routine upkeep, including painting and repair to a level that is consistent with the level of maintenance on adjoining or nearby properties;
 - f. Trash collection which ensures that trash cans are not left at the curb for any period in excess of twenty-four (24) hours; the property must be kept free from accumulated garbage and refuse;
 - g. Housekeeping service as a part of hotel or property management company included in property management license;
 - h. On-street parking for nightly rental uses shall not result in an obstruction to traffic and pedestrian circulation or public safety;
 - i. No outdoor display of goods and merchandise shall be permitted as part of any nightly rental use;
 - j. Unless expressly permitted under the Sign Code of this Title, no signs will be permitted for nightly rental uses;
 - k. Nightly rentals may not be used for commercial uses not otherwise permitted in the zone. Nightly rentals may not be converted to Corporate Sponsor or Business houses which are used primarily to distribute retail products or personal services to invitees for marketing or similar purposes, regardless of whether such products or services are charged for. A Corporate Sponsor is any Business enterprise or combination of Business enterprises which provide funding for any special event in the amount of fifty percent (50%) or more of the funds necessary to promote the event or account for fifty percent (50%) or more of the event operating expenditure budget.
3. **Noise and Occupancy Control:** The licensee and the owner of rentals under this Section are responsible for regulating the occupancy of the Unit and noise created by the occupants of the Unit. Violation of the Noise Ordinance, violation of occupancy loads, failure to use designated off-street parking, illegal conduct, or any other abuse, which violates any law regarding use or occupancy of the premises, is grounds for revocation. Failure to collect and deposit sales tax is also a violation of the license and grounds for revocation.
4. **Review Criteria:** In determining whether or not a Business license for rental authorized under this Section shall be issued, the application shall be reviewed to see if, in addition to standards and conditions applicable to issuance of all Business licenses, the following conditions and standards are met:
- a. The Unit is located within a zone and subzone designated as allowing rentals for the period which the license is applied for and a low impact permit (with possible conditions) is approved. The City may further adopt and amend at any time a map specifying detailed zones or areas where nightly rentals are permitted.

- b. The City is allowed under this section to adopt a limit on the amount of nightly rental units allowed in the City. If a limit is set, the license issued must fall under such limits currently established.
- c. The access to the rental Unit and the layout of the Unit is such that noise and physical trespass from the proposed rental Unit is not likely to be a substantial intrusion to the adjoining properties. If the proposed rental Unit is a single-family home or duplex and shares an access, hallway, common wall, or driveway with another dwelling, written consent of the owner of the other dwelling is required.
- d. The applicant must designate a responsible party if other than an on-premises caretaker. The responsible party must be a property management company, realtor, lawyer, owner, or other individual, who resides within a 1-hour drive of the property, or, in the case of a company, has offices in Summit County. The responsible party is personally liable for the failure to properly manage the rental. The responsible party must be available by telephone, or otherwise, twenty-four (24) hours per day, and must be able to respond to telephone inquiries within twenty (20) minutes of receipt of such inquiries. The responsible party is also designated as the agent for receiving all official communications under this Title from Oakley City. If the licensee is a property management company or individual other than the owner, such company or individual must comply with applicable state law, including the Securities Division Real Estate Division in the Utah Code, as amended, which requires those who receive valuable consideration to lease property to have a Utah State license;
- e. The application must bear a sales tax collection and accounting number for the rental operation. This number may be the sales tax accounting number used by the property management company responsible for that Unit, or may be specific to the Unit, but no license will be effective until the sales tax number is provided.

13-9-21: PANHANDLE OR FLAG LOTS:

“Panhandle” or “Flag” type lots can have their place in certain developments and areas and if planned properly can reduce impact on public infrastructure, increase affordability, and reduce the visibility of dwellings. However, they can also pose problems by creating the potential for a proximity impact on adjacent residents. These types of lots are allowed within Oakley City under certain circumstances provided the following issues can be addressed and satisfied:

- A. Residential and other accessory dwellings or structures can only be constructed within the “flag” or “pan” portion of the lot through a Low Impact approval process and must be situated in an envelope approved by the City Planner. An

approved Final Site Plan establishing this envelope will be recorded with the property.

- B. No structure will be allowed within the "pole" or "handle" portion of the lot.
- C. All utilities, including water and sewer laterals will be paid for and installed in the "pole" or "handle" section of the lot, to be ready for connection concurrently with the completion of any foundation excavation work.
- D. There must be constructed a viable access drive which is approved by the City Planner and City Engineer which is in compliance with Chapter 10 of this Title. This drive shall have a width no less than fourteen (14) feet and will be fully usable to access the approved envelope prior to issuance of a building permit. This access will be established prior to any excavation or construction on the site and will be subject to the City's building inspection process.
- E. Before issuance of an occupancy permit, the drive must be inspected and have a finished surface as per approved plans and specifications.

13-9-22: PARKING AND VEHICLE STORAGE:

- A. No portion of a front yard (with the exception of the required driveway) as defined in this Title shall be used for permanent parking of motor vehicles, recreational vehicles or recreational equipment. Permanent parking, as it applies to this chapter, shall mean parking for a consecutive period in excess of twenty-four (24) hours.
- B. No trucks, motor vehicles, or commercial trailers which exceed the rated capacity of one and one-half (1.5) tons shall be stored or parked on any lot or parcel within any residential zone, nor shall any contracting and/or earth moving equipment be stored or parked on any lot or parcel in a residential zone. Exceptions may be found in 13-4-19.
- C. It shall be unlawful to park, store, or leave or to permit the parking, storing or leaving of any licensed or unlicensed motor vehicle of any kind or part(s) thereof, which is in a wrecked, junked, partially dismantled, inoperative, or abandoned condition, whether attended or not, upon any private property within the city limits of the city of Oakley for a period of time in excess of seventy-two (72) hours, except that two (2) or less such vehicles or parts thereof may be stored if within a building or placed behind an opaque screening fence; and except that said vehicles and parts may be within a junk yard or automobile wrecking yard lawfully established pursuant to the provisions of this Code. The accumulation and storage of more than two (2) such vehicles or part(s) thereof, as defined above, on private property except as set forth above, shall constitute a nuisance

detrimental to the health, safety, and welfare of the inhabitants of Oakley City. It shall be the duty of the owner of such vehicle or part(s) thereof or lessee or other person in possession of private property upon which such vehicle or parts(s) thereof are located, to remove the same from such property.

D. Vehicles and equipment associated with any type of permanent construction or contracting business which do not meet the limits and requirements of 13.4.19 of this Title, must receive and maintain a valid conditional use permit for such parking and storage. Limits on sizes, noise, types of equipment, quantity of equipment, storage of materials, and the proper provision of off-street parking and screening may be part of any conditional use permit.

E. **Off-Street Loading and Parking:** All off-street parking facilities required by this Title shall be located on the same lot or parcel of land as the use they are intended to serve. The city planner shall disapprove such plans if found that the required spaces are not usable for standard sized automobiles or do not comply with the requirements for off street parking as set forth in this ordinance. The following regulations are established to increase safety and lessen congestion in the public streets, to provide adequately for parking needs associated with the development of land and increased automobile usage, to set standards for off-street parking according to the amount of traffic generated by each use, and to reduce the on-street storage of vehicles.

1. Number of Spaces- the following required off-street parking spaces for the particular use are minimum requirements:

- a. Residential Structures require two (2) spaces per dwelling unit (Spaces may not be provided in tandem). As a means to encourage the occupants of multiple dwellings to use the required off street parking space in preference to on street parking, entrances to the buildings shall be provided that are direct and convenient to the required off street parking spaces as are the fronting streets.
- b. Combined Parking Areas: The required off street parking and loading facilities may be provided collectively for two (2) or more buildings or uses, provided that the total number of parking spaces shall be not less than the sum of the requirements for each individual use.
- c. Mixed Uses: In the event that two (2) or more uses occupy the same zoning lot, or parcel of land, the total requirements for off street parking and off-street loading space shall be the sum of the requirements of the various uses computed separately.

2. Access to Parking Facilities:

- a. Access driveways shall be provided for ingress to and egress from all parking and loading facilities. Each parking and loading space shall be easily accessible to the intended user.

- b. Access to all off street parking facilities shall be designed in a manner which will not interfere with the movements of vehicular and pedestrian traffic.
3. Commercial Loading Spaces: For every building having a gross floor area of five thousand (5,000) square feet or more to which goods, material, merchandise, or supplies are received or distributed by vehicle, there shall be provided at least one (1) off street loading space. One (1) additional loading space shall also be provided for each additional twenty thousand (20,000) square feet of gross floor area of such building or for each vehicle which must be loaded or unloaded at the same time, whichever requirement is greater. Each required off street loading space shall be not less than ten (10) feet in width, twenty-five (25) feet in length, and fourteen (14) feet in height.
4. Location of Parking Facilities Restricted: Parking and loading facilities may be located any place on the premises except for areas that are required to be landscaped. Off street parking space which is required in connection with a use shall be constructed to be a part of that use and shall not be located within a zone unless expressly permitted therein.
5. Lighting of Parking Areas: Any lighting used to illuminate off street parking facilities or vehicle sales areas shall conform to the Dark Sky lighting standards of this Chapter and be arranged as to reflect the light away from the adjoining premises in any residential zone in accordance with this Title.
6. Continuing Obligation: The required off street parking and loading facilities shall be a continuing obligation of the property owner so long as the use requiring vehicle parking or vehicle loading facilities continues. It shall be unlawful for an owner of any building or use to discontinue or dispense with the required parking or loading facilities without providing other vehicle parking or loading area which meets the requirements of this ordinance.
7. Site Plan Approval Required: At the time a building permit is requested for any building or structure, or at the time the use of land is changed which requires additional off street parking space, a site plan shall be submitted showing the location and layout of such required space along with access aisles, roadways, curbs and curb cuts.
8. Convalescent, nursing, and other such institutions shall have one (1) visitor parking space per three (3) patient beds, plus one (1) parking space for each employee at work in the facility during daylight hours.
9. Hotels and motels shall have one (1) parking space per room or suite, plus one (1) parking space for each employee at work on the premise during daylight hours.
10. Restaurants, taverns, and lounges shall have one (1) parking space per two hundred (200) square feet of floor area.

11. Banks, professional offices, and other business buildings not specifically mentioned elsewhere in this section shall have one (1) parking space per four hundred (400) square feet of office floor area.
12. Retail stores, professional service shops and other business or buildings not specifically mentioned elsewhere in this section shall have parking space at the rate of five (5) spaces per one thousand (1,000) square feet of floor area, except that in any zone designated as the Commercial Zone, parking space may be reduced to three (3) spaces per one thousand (1,000) square feet of floor space.
13. Drive-Ins shall have at least twelve (12) 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.
14. Industrial, manufacturing and wholesale establishments shall have one (1) parking space per employee based on the largest shift.
15. Uses not enumerated: The required off street parking for any building, structure, or use of land of a type which is not listed in this part shall be determined by the Planning Commission. The Planning Commission shall be guided by comparison with the requirements for similar uses which are listed.
16. All off-street parking areas designed for five or more vehicles shall be bordered by a low water use or xeriscape landscaped strip at least eight (8) feet in width.

13-9-23: FENCING:

- A. **Scope.** The term fence or fencing shall include any tangible barrier, an obstruction of any material, and a line of obstacles, lattice work, screen, wall, hedge, or continuous growth of shrubs or trees with the purpose of, or having the effect of, preventing passage and/or view across the fence line.
- B. **Provisions Constitute Minimum Requirements.** In interpreting and applying the provisions of this Section, the requirements contained in this Section are declared to be the minimum requirements.
- C. **Effect of Section on Covenants, Agreements, etc.** This Section shall not nullify the more restrictive provisions of covenants, agreements or ordinances or laws, but shall prevail notwithstanding such provisions which are less restrictive.
- D. **Fences – Residential Standards:**
 1. **Side Yards and Rear Yards.** In any required side or rear yard on lots, the height of fences shall not exceed six (6) feet in height.

2. Front Yards. Fences in required front yards shall be allowed provided that solid type fences shall not exceed three (3) feet in height, and open type fences (for example, chain link fences), shall not exceed four (4) feet in height.
 3. Corner Lots. In addition to the other provisions contained in this Section, fences located on corner lots shall be subject to the following provisions:
 - a. Any fence, wall and/or hedge on the front yard setback shall not exceed three (3) feet in height if opaque construction, or four (4) feet in height if open construction.
 - b. In the side yard setback which fronts on a street, height not to exceed four (4) feet shall be allowed for not less than thirty (30) feet from the intersection measured from the intersection of extended curb lines. Height within the thirty (30) foot area shall conform to the requirements of a front yard setback.
 - c. Heights on the rear yard setback and interior side yard setback shall not exceed six (6) feet.
- E. **Lots within Sensitive Overlay District.** A fence may be built upon a slope greater than thirty (30) percent provided that the following conditions are met:
1. Fences shall be located only upon areas constituting usable land unless otherwise approved by the Oakley City Community Development Department.
 2. Black/Brown vinyl coated chain link or wood pole fencing only shall be allowed in order to blend into the native landscaping. In no case shall the following types of fences be allowed: vinyl, masonry, block, wood, or other sight obscuring material. Other requirements for fencing setback are contained in the individual zone regulations.
 3. The fence shall be built in accordance with this chapter and comply with all restrictions imposed by setbacks, etc., as defined in this Code
 4. All requirements of the Sensitive Overlay District shall be met prior to the construction of the fence.
 5. Fencing on hillside lots shall only be approved in conjunction with an approved landscape plan in conformance with the General Plan.
- F. **Vacant Lots.** For the purpose of this chapter, it shall be presumed that a vacant lot shall contain a minimum front, side and rear yard that are otherwise required by ordinance. In any required side and rear yard on vacant lots, the maximum height of fences or other similar structures shall be six (6) feet.
- G. **Retaining Walls.** Where a retaining wall protects a cut below or a fill above the natural grade and is located on the line separating lots or properties, such retaining wall may be topped by a fence, wall or hedge of the same height that would otherwise be permitted at the location if no retaining wall existed. Retaining walls will not exceed a ten (10) foot vertical height. All retaining walls will be engineered and stamped and signed by a licensed engineer.

- H. **Barbed or Razor Wire Security Fences.** Security fences containing strands of barbed wire, razor wire or other similar fencing designed to prevent intrusions are prohibited, unless specifically approved by the Planning Commission for public safety, health or welfare. Such fences do not include typical fencing for farm animals and public utility stations.
- I. **Agricultural Fencing.** Agricultural Fencing is addressed in 13-3-2.
- J. **Vinyl Fencing.** Vinyl fencing must be reinforced (not hollow) and must be a color which is compatible with existing, adjoining, or similar neighborhood uses.
- K. **Privacy Fencing.** Privacy fencing in any Agricultural (AR) zones and Rural Residential (RR) zones is strongly discouraged and is only allowed through an approved Low Impact permit with possible criteria and conditions attached. Such fencing must not be constructed of non-reinforced vinyl materials, must match or blend into the local colors or architectural character of adjoining uses, blend into the surroundings as much as possible, and not detract from the rural mountain agricultural environment. Privacy Fencing is allowed in commercial and light manufacturing or industrial zones to screen equipment and facilities. In other zones where screening is required to hide equipment and material storage, the fencing must receive a Low Impact Permit or be a condition in a relevant Conditional Use Permit for the approved use.
- L. **Exceptions.** The provisions of this Section shall not apply to certain other fences such as tennis court backstops or patio enclosures in the front, side or rear yards, if approved by the Planning Commission, if in its opinion they do not create a hazard or violation of other ordinances.
- M. **Fencing of Canals:**
 - 1. Any parcel being subdivided which is adjacent to or has within its boundaries a canal right-of-way shall be required to provide along such right-of-way a non-climbable fence unless otherwise approved by the planning commission. The height of the fence shall be at least six (6) feet. The bottom of the fence shall match the grade at the location of the fence so that there are no gaps between the fence and the ground. The developer shall install a concrete strip, if necessary, to eliminate gaps between the bottom of the fence and the ground.
 - 2. As an alternative to fencing the canal, and with the review and approval of the Oakley City Public Utilities Department, the developer may pipe the canal. If the canal is piped, the developer must obtain written permission from the canal company and construct the pipe according to canal company requirements and specifications.

3. All fences bordering canals shall be installed as part of the improvements for the subdivision. No occupancy permit, whether temporary or final, shall be granted until all required fencing is installed in the subdivision.
4. The fence material and type must be approved by the planning commission and should be selected to create an open appearance and avoid a walled-in alley look. In no case shall the following types of fences be allowed: vinyl, masonry, block, wood or other sight obscuring material. Other requirements for fencing setback are contained in the individual zone regulations.

13-9-24: SHIPPING CONTAINERS:

- A. **Requirements:** before placing a Shipping Container on any lot for a storage use, a Low Impact permit must be obtained, and all other applicable zoning regulations must be fully complied. If the use, or converted use is for any form of occupancy, a building permit must also be obtained:
1. Non-screened Shipping Containers are allowed by permit in agricultural operations on AR zones. Property owners claiming to be an agricultural operation must provide substantial evidence of use. The burden of proof of use is the responsibility of the property owner, they must show evidence that the agricultural operation has been in place for at least the last 5 years; or was legally established.
 2. On building sites where the primary use is residential (all VM, CR, RR zones, and AR zones which are not primarily agricultural) a Shipping Container shall only be allowed if it is not visible from that portion of any road (whether public, private, and/or private road easement) that directly abuts the subject parcel. If existing landscaping (including landscaped berms) is used as screening, it shall be indicated on the building plans and photos shall be submitted as evidence. If fencing is used as screening, please see Section 13-9-23 for fencing regulations.
 3. On building sites of less than 1 acres (net) where the primary use is residential only one Shipping Container is allowed, not exceeding 320 square feet and the container is only permitted for up to 180 consecutive days, starting from the date of permit issuance. A demolition permit is required to confirm removal of the Shipping Container. On building sites of more than 1 acres (net) with a legally established primary use, a Shipping Container(s) is allowed if it complies with the other requirements of this Section.
 4. Shipping Containers must meet setback requirements for any type of accessory structures.
 5. Shipping Containers can normally only be used for storage. However, if it is used for any other approved purpose, such as a pool, residence, or recreation room, etc. the Shipping Container must be completely screened, so it does not look like a Shipping Container anymore.

6. A Shipping Container may be allowed in commercial and light industrial zoned areas only if there is a legally established primary use on-site and all parking requirements are maintained.
7. Shipping Containers are allowed in all zones temporarily to store building materials during the construction pursuant to an active building permit. If the building permit is expired, the Shipping Container shall be removed with a demolition permit.
8. The exterior of every Shipping Container shall be completely painted with one of the approved colors. The color shall be indicated on the plot plan for a Low Impact Permit. The following colors are approved:
 - a. Flat, non-reflective dark green to match the surrounding area;
 - b. Flat, non-reflective dark red and/or white (this color is typically limited to AR uses);
 - c. Flat, non-reflective, tan and light browns to match the surrounding area; or,
 - d. Other solid neutral flat color that matches the surrounding natural environment. (applicant must provide pictures of the surrounding area to show compliance)
9. If a property owner or user has an existing Shipping Container that was legally placed on a parcel before 3-1-2021, the use is allowed to continue as a non-conforming use for three (3) more years. At or before 3-1-2024, the Shipping Container shall be removed from the parcel with a demolition permit or the owner will be required to obtain a new building permit and be fully in compliance with this Section.

13-9-25: TRAILS:

All subdivisions and development projects will be evaluated for the inclusion of transportation and/or recreation trails for both local internal needs, or which may also connect and fit into the City's overall trails and transportation objectives found within the General Plan (see trails sections and accompanying maps) and/or any other relevant City or regional Trails Master Planning efforts. Trails will be designed and constructed as per City specifications and approved by the City Engineer. They will be designed to minimize maintenance costs while providing a functional network of pedestrian, equestrian, bicycle trails, walkways, and paths throughout the City. This network will also become a vital part of the City's green space system to the maximum extent possible. Guidelines for trail development are as follows:

- A. Establish and maintain a safe network of bicycle routes and pedestrian trails, which connect activity centers in the City. Activity centers will include but are not limited to schools, churches, parks, arenas, public buildings, and shopping centers.

- B. In all new residential areas, sidewalks are discouraged, and a functional trail system will become more of the standard. Sidewalks may be evaluated in higher density residential projects, but they should be designed to connect into a larger citywide or regional system.
- C. In cases where the trail or sidewalk is located directly adjacent to the curb and gutter, the minimum trail or sidewalk width should be five (5) feet.
- D. The requirement for and location of trails and sidewalks in light industrial areas will be evaluated and determined by the Planning Commission.
- E. Pedestrian and disabled persons must have access to, and within, all parts of commercial developments.
- F. Bicycle, equestrian, and pedestrian trail networks are a valuable community assets. Trail master plan corridors will be preserved, including those in sensitive lands that could be suitable for public trail access.
- G. Projects which include trail development will be reviewed by local trail advocacy groups for comments, including the South Summit Trails Foundation and depending on scope, other Kamas Valley municipalities, including the School District, to help in the implementation of a viable City and regional trail master plan.
- H. The Planning Commission will regularly study and identify where future trails may be safely installed concurrent with development and not jeopardize agricultural uses or riparian ecosystem function in the City or region.
- I. Development of critical trails which follow an ongoing City Master Plan are eligible for certain density bonuses as detailed in Appendix B of this Title.
- J. Trails will be designed and sited to optimize connectivity and to further the City recreational and park objectives. Adequate parking and related facilities will be provided in developments that provide public trailhead access.
- K. In the areas of the Weber River bottoms, North Hills, City properties, and the eastern Forest Service boundary, the City will continue a strategy of a trail system to link these areas with a central City park system, including development clusters located in the central regions of the City.

13-9-26: ANIMALS:

- A. **General Limitations:** A maximum of one hundred (100) animal points per acre of land used exclusively for their care and keeping shall be allowed (see Animal Point values below). Where the owner has less than one (1) full acre of land dedicated to the exclusive care and keeping of animals allowed in the one hundred (100) animal points, the percentage of one hundred (100) animals points shall be the same as the percentage of dedicated land to a full acre, which is forty-three thousand five hundred sixty (43,560) square feet.

- B. **Animal Points:** a unit of measure for animals and livestock with the following values:
 - 1. Horses, Cows, Llamas, & other large livestock forty (40) points each
 - 2. Sheep, Goats, & other medium livestock twenty (20) points each
 - 3. Chickens, Ducks, Geese & other small fowl five (5) points each

- C. **Exceptions:** Agricultural Property owners (in the AR zones) may apply for an exemption to this limit for short periods of time in order to reduce grazing material or plant growth on a specific area or property.

- D. **Sensitive Lands:** Agricultural and horticultural uses, including the raising of crops or livestock, wholesale nurseries, and associated nonresidential buildings that are specifically needed to support active, viable agricultural or horticultural operations are allowed in the Sensitive Lands Overlay (SLO) Zones. Specifically excluded are commercial livestock operations involving swine, poultry, mink, and other animals where the operations are likely to produce highly offensive odors, or other high density animal feeding operations which could degrade or adversely affect riparian wetland areas and water quality.

- E. **Pets:** Dogs and other domestic animal pets are subject to all Summit County Animal Control regulations. No more than four (4) domestic animals over four (4) months of age are allowed per residence without obtaining a kennel and/or conditional use permit (if allowed) for the appropriate zone.

- F. **Kennels:** A kennel permit and/or conditional use permit is required on any premises, except where accessory to an agricultural activity, where five (5) or more domestic animals, over four (4) months of age are boarded, trained, groomed, bred, and/or offered for sale for commercial use.

13-9-27: HOA's:

Homeowners Associations (HOA's) are required in any new subdivision or MPD with any private roads, common open space, parks, playgrounds, or other similar amenities. CC&R's must designate a process for funding and maintaining such

improvements. The City may require that CC&R's be filed with the City as part of the approval process, but the City is not responsible for CC&R enforcement.

CHAPTER 10 EXCAVATIONS, DRIVEWAYS, ENCROACHMENTS, AND STRUCTURES

SECTION CONTENTS:

- 13-10-1: Permits Required**
- 13-10-2: Emergency Conditions**
- 13-10-3: Winter Season**
- 13-10-4: Applications**
- 13-10-5: Permits**
- 13-10-6: Fees**
- 13-10-7: Completion Bond**
- 13-10-8: Supervision and Inspection**
- 13-10-9: Failure to Comply**
- 13-10-10: Penalty**
- 13-10-11: Specific Requirements**

13-10-1: PERMITS REQUIRED:

- A. It shall be unlawful for any person, firm, public utility or corporation to place, make, enlarge or change any excavation, driveway, encroachment or structure within the right of way for any City road without complying with the provisions of this chapter and obtaining a permit as provided for herein.

- B. It shall be unlawful, and punishable as provided for herein, to make any excavation or to place any encroachment or structure in any City right of way not described in the approved permit application or which exceeds in size the dimensions or which does not conform to the conditions described in said application.

- C. A permit shall not be required for the replacement of existing structures or utilities, provided a similar structure or utility is placed in the same location.

13-10-2: EMERGENCY CONDITIONS:

Emergency excavations and encroachments may be made without prior permit if the reason for the excavation or encroachment is to prevent loss of life or damage to property which appears to be imminent if the action is delayed by waiting to secure said permits. In such emergency situations, those making the excavation or encroachment must contact the City office at the earliest possible time, but in no case later than the

first working day following the emergency work in order to secure a formal permit. None of the provisions of these specifications are waived for emergency situations except for the prior permit requirement.

13-10-3: WINTER SEASON:

No permits for road excavations or other excavations within five feet (5') of the edge of a City road shall be issued during the winter season except in emergency situations. For the purposes of this section, "winter season" begins October 15 each year and ends May 1 of the succeeding year.

13-10-4: APPLICATIONS:

Applications shall be made by the person, firm, public utility or corporation actually doing the work. Applications for all permits shall be made to the City office as provided and shall describe the excavation or encroachment and shall have a drawing of the location of the intended excavation, encroachment or structure, the pertinent dimensions thereof, the purpose therefor, the person, firm, public utility, or corporation doing the actual work and the name of the person, firm, public utility, or corporation for whom or by which the work is being done and shall contain an agreement that the applicant will comply with all ordinances and laws of Oakley City and the state of Utah relating to the work to be done. A traffic control plan, conforming to the "Manual of Uniform Traffic Control Devices" (MUTCD) shall be submitted with all applications which involve excavations within the City road right of way. The application shall also provide for an agreement that the applicant shall indemnify the City for any loss, liability, or damage that may result from or because of the making, placement, existence, or manner of guarding or constructing any such excavation, encroachment or structure.

13-10-5: PERMITS:

All permits issued pursuant to this chapter shall be valid for a period of sixty (60) days except that no permit shall extend into the winter season as outlined in section 13-10-3 of this chapter. A copy of the permit issued shall be available at all times when work is under way.

13-10-6: FEES:

A review fee, in the current amount as set by resolution of the City Council shall accompany each application for a permit. Fees must accompany the application unless other fee payment arrangements have been approved by the City.

13-10-7: COMPLETION BOND:

Applicants shall file a completion bond with the City in the amount as set by resolution of the City Council at the time the permit is approved. This may be cash, a letter of credit from an FDIC insured financial institution, or a corporate surety bond. The bond shall be valid for a period of two (2) years from the date of the construction inspection to guarantee that the conditions of any permit together with any restorative work is completed properly. The bond will be released upon recommendation of the City engineer and/or the City road inspector.

Applicants for permits may request permission from the City Council to secure a continual annual bond in lieu of separate bonds for each excavation. Applications for continual bonds shall be made before December 31 of each year and shall be valid for the next calendar year or as determined by the City Council.

Those public entities which are regulated by the state of Utah public service commission, and local public utilities are exempt from the bonding requirements of this chapter, but shall still be required to obtain a road excavation permit prior to making excavation.

13-10-8: SUPERVISION AND INSPECTION:

The City engineer or road inspector shall from time to time inspect or cause to be inspected, all work done pursuant to permits to ensure the enforcement of the provisions of this chapter. Notification shall be given to the City engineer or road inspector at least twenty-four (24) hours prior to the commencement of any work. The completion bond shall not be released without an inspection made to determine satisfaction of all applicable provisions of this chapter. Driveway encroachments require the following inspections to ensure compliance with the standards set out in this chapter:

- A. **Staking Inspection:** A stake or marker shall be placed at each corner of the encroachment as it intersects the road or street, and at each intersection of the driveway as it crosses the right of way or easement line. The front property corners shall also be set and marked with stakes. This inspection is required prior to the encroachment permit being approved. The City must receive at least twenty-four (24) hours' notice prior to requested inspections.
- B. **Rough Grade Inspection:** An inspection of the rough grade driveway is required prior to receiving a footing inspection by the building department. The driveway must be graded to a point that the inspector can determine compliance with this chapter and the development code. The footing elevation/garage floor elevation must be established prior to requesting an inspection. The City must receive at least twenty four (24) hours' notice prior to requested inspections.

- C. **Pre-surfacing Inspection:** An inspection of the driveway is required prior to surfacing (soft or hard) the driveway to determine compliance with this chapter and the development code. In no case can a certificate of occupancy be issued without the pre-surfacing inspection, and the driveway being in compliance with this chapter and the development code.

13-10-9: FAILURE TO COMPLY:

In the event of failure on the part of any person, firm, public utility, or corporation to comply fully with the provisions of this chapter, the City is authorized to:

- A. Initiate action by citation or information under section 13-10-10 of this chapter and/or proceed to forfeit bond; or
- B. Remove such installation from the right of way or require such person, firm, or corporation to remove the same; or
- C. Give written notice to such person, firm, public utility, or corporation to remove such installation from the right of way. Such notice may be served either by personal service or by mailing the notice to the person, firm, public utility, or corporation by registered mail and posting a copy thereof on such installation for a period of ten (10) days. If such installation is not removed within ten (10) days after the notice is complete, said authorities may remove the same at the expense of the person, firm, or corporation and recover costs and expenses, and also the sum of one hundred dollars (\$100.00) for each day the same remained within the right of way after notice was complete, in an action for that purpose; or
- D. If such person, firm, public utility, or corporation disputes or denies the existence of such installation, or refuses to remove or permit its removal, said authorities may bring an action to abate the same as a nuisance, and if judgment is recovered by said authorities, there shall also be recovered, in addition to having the same abated, the costs of action and the sum of one hundred dollars (\$100.00) for every day such nuisance remained within the right of way after notice was given for its removal in the manner provided in subsection C of this section. See UCA 27-12-135.

13-10-10: PENALTY:

Any person who violates the provisions of this chapter is guilty of a class C misdemeanor. Each day a continuing violation occurs shall be deemed a separate offense.

13-10-11: SPECIFIC REQUIREMENTS:

Specific engineering standards and requirements for the enforcement of this chapter may be adopted from time to time by the City and are made a part of this chapter by reference.

CHAPTER 11 EXCAVATION, GRADING AND FILLING ON PRIVATE PROPERTY

SECTION CONTENTS:

- 13-11-1: Permit Required**
- 13-11-2: Emergency Conditions**
- 13-11-3: Applications**
- 13-11-4: Permits**
- 13-11-5: Exemptions**
- 13-11-6: Fees**
- 13-11-7: Completion Bond**
- 13-11-8: Supervision and Inspection**
- 13-11-9: Appeals**
- 13-11-10: Failure to Comply**
- 13-11-11: Penalty**
- 13-11-12: Specific Requirements**

13-11-1: PERMIT REQUIRED:

- A. It shall be unlawful for any person, firm, public utility or corporation to place, make, enlarge or change any excavation, regrade existing contours or place fill on private property without complying with the provisions of this chapter and obtaining a permit as provided for herein.
- B. It shall be unlawful, and punishable as provided for herein, to make any excavation or to place any fill on private property not described in the approved permit application or which exceeds in size the dimensions or which does not conform to the conditions described in said application.
- C. Whenever the City engineer determines that any existing excavation, embankment or fill on private property has become a hazard to life and limb, or endangers property, or adversely affects the safety, use or stability of a public way or drainage channel, the owner of the property upon which the excavation or fill is located, or other person or agent in control of said property, upon receipt of notice in writing from the City engineer, shall within the period specified therein repair or eliminate such excavation or embankment so as to eliminate the hazard and be in conformance with the requirements of this chapter.

13-11-2: EMERGENCY CONDITIONS:

Emergency excavations, grading or placement of fill may be made without prior permit approval if the reason for the excavation or grading or placement fill is to prevent loss of life or damage to property which appears to be imminent, if the action is delayed by waiting to secure said permits. In such emergency situations, those making the excavation, grading or placement of fill must contact the county engineer's office at the earliest possible time, but in no case later than the first working day following the emergency work in order to secure a formal permit. None of the provisions of these specifications are waived for emergency situations except for the prior permit requirement.

13-11-3: APPLICATIONS:

Applications shall be made by the owner of the property, their agents or assigns, on which the work is being done. Applications for all permits shall be made to the City office on forms provided and shall describe the:

- A. Excavation, grading, or placement of fill.
- B. Site plan of the intended excavation fill and/or grading.
- C. Site plan containing pertinent dimensions thereof.
- D. Purpose thereof.

List the person, firm, public utility, or corporation doing the actual work and the name of the person, firm, public utility, or corporation for whom or by which the work is being done.

The application shall contain an agreement that the applicant will comply with all ordinances and laws of Oakley City and the state of Utah relating to the work to be done. The application shall also provide for an agreement that the applicant shall indemnify the City for any loss, liability, or damage that may result from or because of the making, placement, existence or manner of guarding or constructing any such excavation, grading, or placement of fill.

No application shall be accepted when the intended work is for, or includes the excavation or construction of a footing or foundation for a structure regulated by the Oakley City building department, or for underground utilities requiring a low impact permit from the City Planner of Oakley City.

13-11-4: PERMITS:

All permits issued pursuant to this chapter shall be valid for a period of one hundred eighty (180) days. A copy of the permit issued shall be posted on the property in a location that is visible from the adjacent street and be available at all times when work is under way.

13-11-5: EXEMPTIONS:

The following activities are exempt from obtaining a permit and from the requirements of this chapter:

- A. Actions by a public agency or utility, the City, the county, or other governmental agency, to remove or alleviate an emergency condition, restore utility service, or reopen a public thoroughfare to traffic.
- B. Action by any person when the City determines, and documents in writing, that the actions are necessary to remove or alleviate an emergency condition, restore utility service, or reopen a public thoroughfare to traffic.
- C. Bona fide agricultural and farming operations which constitute the principal use of any parcel or tract of land located in the county and which meet the requirements of the zoning for that portion of the City in which the operation is located.

13-11-6: FEES:

A review fee, in the current amount as set by resolution of the City Council, shall accompany each application for a permit. Fees must accompany the application.

13-11-7: COMPLETION BOND:

Applicants shall file a completion bond with the City in the amount as set by resolution of the City council at the time the permit is approved. This may be cash, a letter of credit from an FDIC insured financial institution, or a corporate surety bond. The bond shall be valid until all work shown in the permit is completed to guarantee that the conditions of any permit, together with any restoration work, is completed properly. The bond will be released upon recommendation of the City engineer.

13-11-8: SUPERVISION AND INSPECTION:

The City engineer or other authorized representative shall from time to time inspect all work done pursuant to permits to ensure the enforcement of the provisions of this chapter. Notification shall be given to the City at least twenty four (24) hours prior to the commencement of any work. The completion bond shall not be released without an inspection made to determine satisfaction of all applicable provisions of this chapter.

13-11-9: APPEALS:

An applicant whose application has been denied or approved with conditions, may appeal the denied or imposed conditions to the City council. A notice of appeal must be filed with the City office within ten (10) days of the denial or imposition of conditions of the permit. The notice of appeal shall contain the following information:

- A. An application with applicant's name, address and daytime telephone number;
- B. A statement describing the basis for the appeal; and
- C. The relief sought by the applicant.

The appeal shall be scheduled on the next available City council meeting.

13-11-10: FAILURE TO COMPLY:

In the event of failure on the part of any person, firm, public utility or corporation to comply fully with the provisions of this chapter, the City is authorized to:

- A. Initiate criminal action by citation or information under section 13-11-11 of this chapter and/or proceed to forfeit bond; or
- B. Remove such installation from the right of way or require such person, firm or corporation to remove the same; or
- C. Give written notice to such person, firm, public utility or corporation to restore the property to its original condition. Such notice may be served either by personal service or by mailing the notice to the person, firm, public utility or corporation by certified mail and posting a copy thereof on such installation for a period of ten (10) days. If the restoration work is not implemented or restored within ten (10) days after the notice is complete, said authorities may implement the restoration at the expense of the person, firm or corporation and recover costs and expenses, and also the sum of one hundred dollars (\$100.00) for each day the property is not restored after notice was complete, in an action for that purpose; or
- D. If such person, firm, public utility or corporation refuses to restore the property, said authorities may bring an action to abate the same as a nuisance, and if judgment is recovered by said authorities, there shall also be recovered, in addition to having the same abated, the cost of action and the sum of one hundred dollars (\$100.00) for every day such nuisance remained after notice was given for its implementation in the manner provided in subsection C of this section. See UCA 27-12-135.

13-11-11: PENALTY:

- A. Any person who violates the provisions of this chapter is guilty of a class C misdemeanor, punishable by a fine not to exceed seven hundred fifty dollars (\$750.00) per day, or a jail term of up to ninety (90) days, or by both such fine and jail term.
- B. Violators of this chapter are also subject to any penalties that may be imposed by the state of Utah or the federal government.
- C. In addition to any criminal fines and/or penalties which may be assessed for a violation of this chapter, the City shall have the right to issue a stop work order on the entire construction site, and/or take measures to restore the property to its original condition and to implement any measures necessary to bring the property into compliance with all local, state or federal requirements required by this chapter. The City shall have the right to have such work completed and/or maintained by City personnel or to hire a private contractor to perform such work at the expense of the permittee, property owner, developer or contractor responsible for such violation. The City may assess said expenses against the bond posted by the permittee or to lien the property for such expenses.
- D. It is unlawful for any person, firm, public utility, public agency, or corporation to continue any further work on the construction site after a stop work order has been issued. A violation of a stop work order is punishable as a class C misdemeanor.
- E. The City may also pursue civil remedies for a violation of this chapter.

13-11-12: SPECIFIC REQUIREMENTS:

Specific standards and requirements for the enforcement of this chapter may be adopted from time to time by the City and are made a part of this chapter by reference.

CHAPTER 12 CONSTRUCTION IMPACT MITIGATION FOR DEVELOPMENT PROJECTS

SECTION CONTENTS:

- 13-12-1: Requirements for Preparing A Construction Mitigation Plan**
- 13-12-2: Emergency Conditions**
- 13-12-3: Applications**
- 13-12-4: Construction Mitigation Plans**
- 13-12-5: Exemptions**
- 13-12-6: Fees**
- 13-12-7: Supervision and Inspection**
- 13-12-8: Appeals**
- 13-12-9: Failure to Comply**
- 13-12-10: Penalty**
- 13-12-11: Specific Requirements**

13-12-1: REQUIREMENTS FOR PREPARING A CONSTRUCTION MITIGATION PLAN:

It shall be unlawful and punishable as a class C misdemeanor for any person, firm, public utility, public agency, corporation, or other type of entity, to engage in any construction activity without complying with the provisions of this chapter and preparing for approval by the City, a construction mitigation plan, hereinafter referred to as "CMP". It shall also be unlawful for any person hiring or directing another person, firm, entity, or corporation to perform the work without complying with the provisions of this chapter.

13-12-2: EMERGENCY CONDITIONS:

Emergency construction activity may be started without obtaining an approved CMP from the county if the reason for the construction activity is to prevent loss of life or damage to property which appears to be imminent if the action is delayed by waiting to receive approval of a CMP. In such emergency situations, those performing the work must contact the City office at the earliest possible time, but in no case later than the first working day following the emergency work. None of the provisions of this chapter are waived for emergency situations except for the requirement of obtaining an approved CMP in advance.

13-12-3: APPLICATIONS:

The CMP shall be executed by the owner or agents or assigns of the owner of the property on which the work is being done. In the case of work within a public right of way, the CMP shall be executed by an authorized officer of the firm, public utility, public agency or corporation actually doing the work. In the case of work within a private road or private road right of way, the CMP shall be executed by an authorized officer of the association responsible for the maintenance of the road.

13-12-4: CONSTRUCTION MITIGATION PLANS:

All CMPs approved pursuant to this chapter shall be valid for a period not to exceed the permit issued in conjunction with the CMP. A copy of the CMP shall be available on site at all times when work is under way.

13-12-5: EXEMPTIONS:

The following activities are exempt from the requirements of this chapter:

- A. Actions by a public agency or utility, the City, the county, or other governmental agency to remove or alleviate an emergency condition, restore utility service, or reopen a public thoroughfare to traffic;
- B. Actions by any person when the county determines, and documents in writing, that the actions are necessary to remove or alleviate an emergency condition, restore utility service, or reopen a public thoroughfare to traffic; and
- C. Bona fide agricultural and farming operations which constitute the principal use of any parcel or tract of ground located in the county.

13-12-6: FEES:

A review fee and inspection fee, in the current amount as set by resolution of the City council, shall accompany each CMP for approval. Fees must accompany the initial draft of the CMP.

13-12-7: SUPERVISION AND INSPECTION:

The City engineer or the City Planner shall from time to time inspect or cause to be inspected, all work done pursuant to permits to ensure the enforcement of the provisions of this chapter. The applicant shall implement all recommendations of the inspector, to correct any construction impact not being mitigated per the approved CMP, or any impact not addressed or contemplated in the approved CMP.

13-12-8: APPEALS:

An applicant submitting a CMP, whose application has been denied or approved with conditions, may appeal the denied or imposed conditions to the City council. A notice of appeal must be filed with the office of the City or City Planner within ten (10) days of the denial or imposition of conditions of the permit. The notice of appeal shall contain the following information:

- A. An application with applicant's name, address and daytime telephone number;
- B. A statement describing the basis for the appeal; and
- C. The relief sought by the applicant.

The appeal shall be scheduled on the next available county council meeting.

13-12-9: FAILURE TO COMPLY:

In the event of failure on the part of any person, firm, public utility, entity, or corporation to comply fully with the provisions of this chapter, law enforcement authorities of Oakley City are authorized to:

- A. Initiate criminal action by citation or information under section 13-12-10 of this chapter and/or proceed to forfeit bond; or
- B. Proceed to forfeit bond; or
- C. Give written notice to such person, firm, public utility, entity, or corporation to restore the CMP. Such notice may be served either by personal service or by mailing the notice to the person, firm, public utility, entity, or corporation by certified mail and posting a copy thereof on such installation for a period of ten (10) days. If the CMP is not implemented or restored within ten (10) days after the notice is complete, said authorities may implement the CMP at the expense of the person, firm, entity, or corporation and recover costs and expenses, and also the sum of one hundred dollars (\$100.00) for each day the CMP was not in effective operation after notice was complete, in an action for that purpose; or
- D. If such person, firm, public utility, entity, or corporation refuses to implement a CMP, said authorities may bring an action to abate the same as a nuisance, and if judgment is recovered by said authorities, there shall also be recovered, in addition to having the same abated, the cost of action and the sum of one hundred dollars (\$100.00) for every day such nuisance remained after written notice prescribed in subsection C of this section.

13-12-10: PENALTY:

- A. Any person who violates the provisions of this chapter is guilty of a class C misdemeanor, punishable by a fine not to exceed seven hundred fifty dollars (\$750.00) per day, or a jail term of up to ninety (90) days, or by both such fine and jail term.
- B. Violators of this chapter are also subject to any penalties that may be imposed by the state of Utah, or the federal government.
- C. In addition to any criminal fines and/or penalties which may be assessed for a violation of this chapter, Oakley City shall have the right to issue a stop work order on the entire construction site, and/or install or maintain appropriate CMP measures on any site which is required to have such measures in the event that construction activity is commenced or continued without such measures having been installed or required by this chapter. Oakley City shall have the right to have such measures installed and maintained by county personnel or to hire a private contractor to perform such work at the expense of the permittee, property owner, developer or contractor responsible for such measures. The City may assess said expenses against the bond posted by the permittee.
- D. It is unlawful for any person, firm, public utility, public agency, entity, or corporation to continue any further work on the construction site after a stop work order has been issued. A violation of a stop work order is punishable as a class C misdemeanor.
- E. Oakley City may also pursue civil remedies for violations of this chapter.

13-12-11: SPECIFIC REQUIREMENTS:

Specific standards and requirements for the enforcement of this chapter are as follows:

- A. **General:**
 - 1. **Purpose:** The purpose of this section is to provide a construction mitigation plan (CMP) instruction manual. The manual is designed to provide a consistent policy under which certain physical aspects of construction mitigation will be implemented to minimize project impacts to the public. The elements contained in this document are related to the development process, however, it is intended that they apply to both public and private work designated herein.

These standards cannot anticipate all situations. They are intended to assist, but not be a substitute for competent work by design and construction professionals. All construction management practices must

be consistent with all development project and construction "permit" approvals. It is not the intent to limit any innovative or creative efforts that could result in better quality, greater cost savings, or both. Any proposed departure from the manual will be judged on the likelihood that such variance will produce a comparable result, adequate for the user and City resident over the duration of the improvement/project.

If the project changes ownership or contracting services change, the City engineer and City Planning department must be notified and an amended CMP submitted and signed by the new owner/contractor. Any other departures from the approved CMP must be submitted in writing and approved by the City engineer and Planning department. The approved CMP must be kept on site.

2. **Applicability:** This chapter applies to all development projects and construction projects requiring a development, construction or building permit from the City and which is within the limits specified in Table 1 of this subsection. All such projects must submit a construction management plan in accordance with these instructions prior to project approval or permit issuance.

TABLE 1

Category of Work	Parcels Less Than 1/2 Acre	Parcels Between 1/2 And 1 Acre	Parcels Greater Than 1 Acre
On site excavation	500 cu. yds.	750 cu. yds.	1,000 cu. yds.
Imported fill	100 cu. yds.	250 cu. yds.	500 cu. yds.
Area of disturbance	Up to 0.5 acre	Up to 1 acre	Over 1 acre
Size of commercial and residential additions and/or renovations	Over 1,000 sq. ft.	Over 1,500 sq. ft.	Over 2,000 sq. ft.
New commercial and multi-family construction	All	All	All
New residential construction	All	All	All

3. **Definitions and Terms:**
BEST MANAGEMENT PRACTICES (BMPs): Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, waste disposal, or drainage from material storage.

CODE ENFORCEMENT OFFICER: Enforces this code and his/her duties include assisting with the CMP implementation and may include building and public works inspectors.

COMMERCIAL: An enterprise or use that is carried on for profit by the owner, lessee or licensee.

CONSTRUCTION MITIGATION OFFICER: A designated employee of the City whose charge is to ensure that all aspects of a CMP are followed, and to further ensure that the impacts associated with construction activities within the City are effectively managed and impacts associated with those projects are the least necessary to accomplish the project.

CONSTRUCTION MITIGATION PLAN ("CMP"): A combination of diagrams, documents, drawings, and specifications that clearly define the steps that will be taken to demonstrate how the construction impacts to the community and the environment will be minimized and managed.

DISTURBANCE AREA: A portion of land where vegetation, topsoil or other native soils have been removed for purposes of construction or development.

FINAL STABILIZATION: Uniform vegetative cover that has been established with a density of at least seventy percent (70%) of pre-disturbed levels.

MULTI-FAMILY RESIDENTIAL: Building or structure intended as a dwelling for three (3) or more units.

RESIDENTIAL: Building or structure intended as a dwelling for less than three (3) units.

SITE PLAN: A drawing that depicts the existing and future condition of the parcel or property, including, but not limited to, topography, drainage, floodplains, wetlands, waterways, roads or accesses, and structures.

B. Project Description:

1. **Description:** The CMP shall include a brief overview of the construction project including background information, proposed development type, and general project information. The CMP shall also describe any possible adverse effects to the public, such as interruptions to utilities, traffic impacts or impacts to the general environment.
2. **Project Location:** A project vicinity map shall be included in the CMP. The map should accurately depict general project location. The approved

project site plan shall be considered a part of the CMP. The relevant parts of the CMP shall be included on the site plan.

3. **Disturbance Area:** The project site plan shall graphically describe the limits of disturbance and include a summary of the project disturbance area (shown by construction phase). Soil disturbance shall be kept to a minimum. Construction staging and phasing shall occur, where applicable, to minimize soil disturbance time. All disturbed areas shall be revegetated as soon as possible.

C. **Project Documentation:**

1. **Permits:** The contractor shall maintain all applicable local, state and federal licenses and permits that apply to the construction project. Applicant shall provide a list of all related permits both applied for and received.
2. **Public Notification:** For all nonresidential projects exceeding the limits set forth in table 1 of this section, the contractor shall develop a neighborhood notification plan. Public notification shall be sent to or delivered to all property owners within one thousand feet (1,000') of the proposed project. The notice shall address project phasing, schedule, traffic and/or pedestrian concerns, and hauling/staging operations. Neighborhood notifications shall take place periodically, throughout the duration of the project, in the event that there are any changes to the CMP, or as may be required by the county. The neighborhood notification shall contain the following information:
 - a. Project name and address.
 - b. Name, address and phone number of the project supervisor/manager responsible for the project. Include name and phone number of the party to call in case of an emergency if different than project supervisor/manager.
 - c. Project description (a brief summary).
 - d. Anticipated schedule, including beginning and completion dates.
 - e. Project phasing, if applicable.
 - f. Traffic/pedestrian and staging impacts.

For all nonresidential projects that require a CMP, or if otherwise requested by the county, a preconstruction meeting shall occur. The purpose of the meeting is to discuss the project CMP. The developer, project engineer, contractor and applicable subcontractors shall be required to attend the meeting.

3. **Project Information Sign:** For all nonresidential projects exceeding the limits set forth in table 1 of this section, and if the anticipated project duration will be greater than thirty (30) days, a project sign shall be constructed and posted on the project site and include:
 - a. Project name and address.
 - b. Building permit number or development permit number.

- c. Name, address and phone number of the general contractor.
- d. Name, address and phone number of the project supervisor/manager responsible for the project.
- e. Name and phone number of the party to call in case of an emergency.

The sign shall be posted on the subject property, in a location outside the street right of way, where the sign is readable from the street. The proposed sign location shall be shown on the project site plan. The sign shall not exceed twenty (20) square feet in size and six feet (6') in total height. The sign must be legible from the street, however, the lettering shall not exceed six inches (6") in height.

- 4. **Contact Designation:** The plan shall have a contact list with associated phone numbers located at the front of the document. The list will include, but not be limited to: the owner, contractor, designated overall site supervisor, a safety supervisor, a traffic control supervisor, and an erosion control supervisor. Other information shall include applicable City phone numbers, fire department, sheriff's department, school district, Blue Stake Center, and all applicable utility company contact information. The contact list should also include hospital contact information and the emergency 911 reminder.

D. **Project Implementation:**

- 1. **Dates of Construction:** An anticipated project schedule, including dates, shall be specified in the CMP and include all project phasing, with itemized project details and specific item completion dates.
- 2. **Hours of Construction:** Construction hours shall be limited to seven o'clock (7:00) A.M. to nine o'clock (9:00) P.M. Monday through Saturday and nine o'clock (9:00) A.M. to nine o'clock (9:00) P.M. on Sundays.
- 3. **Adjoining Properties:** No person shall excavate on land close enough to a property line to endanger any adjacent public street, sidewalk, other public or private property, or easement, without supporting and protecting the property from any damage that might result from construction operations. Any work being performed within the City right of way shall comply with this code.
- 4. **Project Fencing:** To the extent that a building or development envelope is designated on a recorded subdivision plat, the building or development envelope shall be staked on the ground prior to any construction activity. The corners of the building or development envelope shall be staked with a four-foot (4') steel fence post. Appropriate construction fencing shall be installed around the perimeter of the building or development envelope. Fencing shall remain in place until the certificate of occupancy is issued, and/or the site is fully revegetated or otherwise permanently stabilized. Road construction or reconstruction projects shall not be required to install construction fencing around the perimeter of the project, however appropriate sediment control measures shall be installed and all areas of

disturbance shall be revegetated as soon as possible. Any staging area established during the course of a road construction project shall be appropriately fenced as described above.

5. **Natural Environment:** Project construction shall be designed to minimize impacts to the natural environment. All riparian and wetland areas shall be identified on the site plan which is part of the CMP, and the CMP shall identify the measures proposed to be taken to protect such riparian and wetland areas. All required protection measures shall be in place prior to the commencement of any construction or demolition activities. The proposed CMP shall be consistent with all land use approvals and the desired character of existing land use in the surrounding area, including, but not limited to, land form, slope, plant materials and berming.

E. **Parking Management:**

1. **Emergency Vehicle Access:** The contractor shall maintain continuous emergency vehicle access, on and around the project site, including, but not limited to, police, fire, ambulance and snowplow services.
2. **Construction Parking Details:** Except where on street parking is specifically approved by a development agreement and is so designated on an approved site plan or subdivision plat, there is no parking allowed on City roads or within the City right of way from November 15 through April 15. From April 16 through November 14, vehicles shall not be parked in such a manner as to obstruct the flow of traffic. Two-way traffic shall be maintained at all times unless an approved lane/road closure permit is obtained from the City engineer. If a lane/road closure is anticipated for any phase of construction, a traffic control plan shall be submitted in the CMP. These parking requirements shall be noted in the CMP. Realistic and sufficient on-site parking locations shall be designated and made continually available for all craftsmen, laborers, subcontractors, and contractors involved in the construction process. The City encourages use of public transportation, vanpooling and careful staging of subcontractors as a means to eliminate impacts of the project construction upon the public and private streets.
3. **Staging Areas:** The CMP shall specify construction staging area locations. All staging must occur within the approved development envelope(s). On site staging areas shall be shown on the project site plan. The CMP shall address delivery and construction vehicle staging for the duration of the project. The staging plan shall estimate the number of truckloads, number of heavy equipment deliveries, etc., expected and their timing and duration for each stage of the project. Deliveries and heavy equipment that may negatively impact public or private streets shall be subject to timing management and traffic directing personnel. City personnel may limit project staging locations, number of trucks, and duration of operations depending on project location, site surroundings and negative impact upon the community. The CMP shall include the staging location of

any cranes, concrete pump trucks or other equipment. All applicable county right of way permits for the staging of cranes, concrete pump trucks or other equipment in the right of way, however temporary they might be, shall be obtained from the City office prior to arriving on the project site.

4. **Construction Trailer, Materials Storage, And Waste Management:**

Construction trailers, job materials storage, portable/temporary restrooms, concrete wash-out area(s), and waste management and recycling container locations shall be clearly designated on the project site plan. All construction related equipment must remain within any designated building envelope. All nonresidential construction sites are required to have a recycling plan and shall have recycling receptacles for cans, bottles, and also for cardboard and other recyclable materials per the approved recycling plan. All construction sites are required to have a separate dumpster/receptacle for all "municipal garbage" and nonrecyclable items intended for the landfill. All construction waste and recycling containers shall be adequately covered at all times until transferred to the landfill or recycling center. The applicant shall prevent any accumulated debris, litter, or trash on any construction site or to allow the same to blow or scatter onto adjoining properties. The CMP shall specify a minimum interval for general site cleanup. Recycle Utah has a recycling bin lease program that may be utilized for construction projects. For details, contact Recycle Utah, or visit http://www.recycleutah.org/lend-a-bin_program.html.

F. **Traffic Control:**

1. **General:** All traffic control operations shall be governed by the most current edition of the "Manual on Uniform Traffic Control Devices for Streets And Highways" (MUTCD) and managed by the designated traffic control supervisor. Traffic control personnel shall wear clothing designating them as traffic control, per the MUTCD, and shall be able to successfully converse with the public.
2. **Haul Routes:** The CMP shall specify all public or private streets which may pose a potential challenge to the delivery of materials and/or equipment and which would have an impact on normal traffic flow. The CMP shall identify how these challenges will be mitigated.
3. **Vehicle Limitations:** Maximum vehicle weights and sizes shall be specified in the CMP and be in compliance with Utah state law (may reference the Utah motor carriers website at http://www.utahmc.com/trucking_guide/) and as may be otherwise restricted by this code.
4. **Delivery Requirements:** The CMP shall address the maximum number of delivery vehicles on site at any one time, along with the hours the deliveries will occur, staging locations, and any exceptions to the delivery schedule. The CMP shall address any traffic management challenges

related to building material deliveries, such as multiple deliveries of concrete, earth, aggregate, lumber, etc.

5. **Traffic Control Plan:** When applicable, or when required by the City, a complete traffic control plan (TCP) shall be submitted as part of the CMP. The TCP shall be completed by a certified traffic control supervisor and must conform to the most current edition of the "Manual on Uniform Traffic Control Devices for Streets And Highways" (MUTCD).

- G. **Pedestrian Protection:** The CMP shall address pedestrian safety utilizing the MUTCD (chapter 6D), the Americans with disabilities act, and IBC chapter 33. If the proposed development is affecting open space and/or public trails, the appropriate agencies shall be notified and all required signage shall be installed.

- H. **Sediment and Erosion Control Plan:** A stormwater pollution prevention plan (SWP3) and erosion control plan (ECP), in accordance with chapter 13 of this Title, must be submitted with all projects involving the disturbance of existing soils or vegetation. The SWP3 and/or ECP must be maintained until revegetation surface coverage is at least seventy percent (70%) of pre-disturbance levels, or until permanent physical erosion reduction methods have been employed. If the area of disturbance is equal to or greater than one acre a Utah state stormwater permit (SWMP) is required.

- I. **Sanitary Facility Plan:** Portable toilets shall be provided during construction. The toilets will be located outside the adjacent road right of way in a manner that will prevent tipping. The toilets will comply with OSHA standards and regulations for the construction usage demand for the site. A licensed sanitary contractor will provide regular servicing of the portable toilets. All spills will be cleaned up and removed from the site by a licensed sanitary contractor. Portable toilets will be available on site until there is no longer a construction demand for them.

- J. **Fugitive Dust Control Plan:** If the project has the potential to degrade air quality or to create a nuisance for adjacent properties or roadways as a result of blowing dust, a dust control plan shall be included in the CMP. In addition, certain activities are regulated by the Utah division of air quality, and may be subject to a permit from the state of Utah. Contact the Utah division of air quality for details and requirements.

- K. **Noise Control Plan:** All construction activity shall comply with applicable noise regulations of this code. All construction equipment shall be adequately muffled and maintained to minimize project noise. Any noise above sixty-five (65) decibels violates this code, as well as any excessive or unusually loud noise that is plainly audible beyond the property line or outside the hours of operation. The City engineer or the building official may authorize extended hours, upon written request, for construction operations or procedures which, by their nature require

continuous operations. Such operations or procedures should be contemplated and addressed in the CMP.

- L. **Temporary Lighting Plan:** If the project anticipates working during nighttime hours and temporary lighting is required to facilitate safe construction activity, a temporary lighting plan shall be submitted. The plan shall propose the minimum amount of light necessary for safe operations. All lighting shall be directed away from existing residential areas and from any public or private street to the maximum extent practicable.

- M. **Snow Storage Plan:** Adequate area(s) for the snow storage (i.e., snow that accumulates on the property and which needs to be removed to facilitate winter construction) shall be identified and used on the property within any designated building or development envelope(s). Snow may not be removed to the public or private street right of way.

- N. **Enforcement:**
 - 1. **Construction Mitigation Officer:** A construction mitigation officer shall complete random site visits to determine if the project is following the approved CMP and requirements.
 - 2. **City Code Enforcement:** The City Planner, his/her appointee, the City building official, his/her appointee or the City engineer, his/her appointee, shall complete random site inspections to determine if a project is meeting its conditions of approval. These inspections are not intended to substitute for standard building code or other county code compliance inspections.
 - 3. **Inspection Reports:** The construction mitigation officer and/or other county enforcement personnel shall complete construction inspection reports. All reports are available for public review and will be located in City offices.

CHAPTER 13 STORMWATER POLLUTION PREVENTION AND EROSION CONTROL

SECTION CONTENTS:

13-13-1:	Requirements for Permit
13-13-2:	Emergency Conditions
13-13-3:	Application for Permit
13-13-4:	Permits
13-13-5:	Exemptions
13-13-6:	Fees
13-13-7:	Completion Bond
13-13-8:	Supervision and Inspection
13-13-9:	Appeals
13-13-10:	Failure to Comply
13-13-11:	Specific Requirements
13-13-12:	Penalty

13-13-1: REQUIREMENTS FOR PERMIT:

- A. It shall be unlawful and punishable as a class C misdemeanor provided for any person, firm, public utility, public agency, or corporation, to make, enlarge or change any excavation, regrade existing contours, place fill or strip vegetation without complying with the provisions of this chapter and obtaining a stormwater pollution prevention plan (SWP3) and erosion control plan (ECP) permit as provided for herein. It shall also be unlawful for any person hiring or directing another person, firm, or corporation to perform the work without obtaining an SWP3 and ECP permit.

- B. It shall be unlawful and punishable as provided to change or expand the excavation, regrading of existing contours, placement of fill or stripping of vegetation without first requesting a modification of the SWP3 and ECP permit issued for the work.

- C. An SWP3 and ECP permit shall be required for any project which requires a permit under any other ordinance, development code or building permit issued by Oakley City.

- D. An SWP3 and ECP permit shall be required for commercial and industrial uses occupying a site of one acre or more, and which are found to be discharging sediment off site, into a waterway, or tracking onto a road or street

13-13-2: EMERGENCY CONDITIONS:

Emergency excavations, grading, or placement of fill may be made without a permit if the reason for the excavation or grading or placement of fill is to prevent loss of life or damage to property which appears to be imminent if the action is delayed by waiting to secure said permits. In such emergency situations, those making the excavation, grading or placement of fill must contact the City office at the earliest possible time, but in no case later than the first working day following the emergency work in order to secure a formal permit. None of the provisions of this chapter are waived for emergency situations except for the prior permit requirement.

13-13-3: APPLICATION FOR PERMIT:

Applications shall be made by the owner of the property on which the work is being done. In the case of work within a public right of way, by the firm, public utility, public agency or corporation actually doing the work, or in the case of work within a private road or private road right of way, by the owner of the road or association responsible for the maintenance of the road. Applications for all permits shall be made to the City office as provided, and state the purpose therefor, the person, firm, public utility, or corporation doing the actual work and the name of the person, firm, public utility, or corporation for whom or by which the work is being done, and shall contain an agreement that the applicant will comply with all ordinances and laws of Oakley City, the state of Utah, and the federal government relating to the work to be done. The application shall also provide for an agreement that the applicant shall indemnify the county for any loss, liability, or damage that may result from or because of the making, placement, existence, or manner of guarding or constructing any such excavation. The application shall be accompanied by a stormwater pollution prevention plan and erosion control plan (SWP3 and ECP). Said plan shall have a drawing of the location of the intended excavation, grading, filling or stripping of vegetation, and the pertinent dimensions thereof. The SWP3 and ECP plan shall employ best management practices (BMPs) and shall contain the layout, typical sections and details of the erosion control and sediment control measures to be used in the plan.

13-13-4: PERMITS:

- A. All permits issued pursuant to this chapter shall be valid for a period not to exceed the development permit, "grading" permit or "excavation" permit issued in conjunction with the SWP3 and ECP permit. A copy of the permit issued shall be available on site at all times when work is under way.

- B. Excavations, grading, or filling of sites which are one acre or more, are required by state and federal regulations to file a "notice of intent" with the Utah division of water quality, stormwater permits section (<http://waterquality.utah.gov/updes/stormwater.htm>). A copy of the notice of intent shall be submitted with the application as provided herein.

13-13-5: EXEMPTIONS:

The following activities are exempt from the requirements of this chapter:

- A. Actions by a public agency or utility, the City, county or other governmental agency to remove or alleviate an emergency condition, restore utility service, or reopen a public thoroughfare to traffic; or
- B. Actions by any person when the county determines, and documents in writing, that the actions are necessary to remove or alleviate an emergency condition, restore utility service, or reopen a public thoroughfare to traffic.
- C. Landscape maintenance activities on fully developed property.
- D. Bona fide agricultural and farming operations which constitute the principal use of any parcel or tract of ground located in the county and which meet the requirements of the zoning for that portion of the county in which the operation is located.

13-13-6: FEES:

A review fee and inspection fee, in the current amount as set by resolution of the City council, shall accompany each application for a permit. Fees must accompany the application.

13-13-7: COMPLETION BOND:

Applicants shall file a completion bond with the City in an amount set by the City engineer at the time the permit is approved. This may be cash, a letter of credit from an FDIC insured financial institution, or a corporate surety bond. The bond shall be valid until one year after all work shown in the permit is completed to guarantee that the conditions of the permit together with any restorative work is completed properly. The bond will be released by the City engineer.

13-13-8: SUPERVISION AND INSPECTION:

- A. The City engineer shall from time to time inspect, or cause to be inspected, all work done pursuant to permits to ensure the enforcement of the provisions of this chapter. Notification shall be given to the City at least twenty-four (24) hours prior to the commencement of any work and within twenty-four (24) hours after implementing the SWP3 and ECP. The completion bond shall not be released without an inspection made to determine satisfaction of all applicable provisions of this chapter.
- B. For construction sites whose area of disturbance is one acre or more, the applicant shall retain qualified personnel to inspect the sediment control measures: 1) at least once each two (2) and after a storm event which precipitated 0.5 inch of water or more within twenty-four (24) hours. The inspector shall prepare written reports of each inspection and make recommendations for correcting any sediment control measure (BMP) found not performing as intended. A copy of each inspection shall be kept on site until such time as the disturbed area has been permanently stabilized. A copy of the report shall also be submitted to the office of the City.
- C. The applicant shall implement all recommendations of the inspector, or the City engineer, to correct any sediment control measure (BMP) found not performing as intended.

13-13-9: APPEALS:

An applicant for an SWP3 and ECP, whose application has been denied or approved with conditions, may appeal the denied or imposed conditions to the Appeal Authority. A notice of appeal must be filed with the office of the City within ten (10) days of the denial or imposition of conditions of the permit. The notice of appeal shall contain the following information:

- A. An application with applicant's name, address and daytime telephone number;
- B. A statement describing the basis for the appeal; and
- C. The relief sought by the applicant.

The appeal shall be scheduled on the next available Appeal Authority meeting.

13-13-10: FAILURE TO COMPLY:

In the event of failure on the part of any person, firm, public utility, or corporation to comply fully with the provisions of this chapter, Oakley City is authorized to:

- A. Initiate criminal action by citation or information under section 13-13-12 of this chapter and/or proceed to forfeit bond; or

- B. Proceed to forfeit bond; or
- C. Install or repair such erosion control and sediment control measures as required to restore the SWP3 and ECP; or
- D. Give written notice to such person, firm, public utility, or corporation to restore such BMPs as required to restore or implement the SWP3 and ECP. Such notice may be served either by personal service or by mailing the notice to the person, firm, public utility, or corporation by certified mail and posting a copy thereof on such installation for a period of ten (10) days. If the SWP3 and ECP is not implemented or restored within ten (10) days after the notice is complete, said authorities may implement the SWP3 and ECP at the expense of the person, firm, public utility, or corporation and recover costs and expenses, and also the sum of one hundred dollars (\$100.00) for each day the SWP3 and ECP were not in effective operation after notice was complete, in an action for that purpose; or
- E. If such person, firm, public utility, or corporation refuses to implement an SWP3 and ECP, said authorities may bring an action to abate the same as a nuisance, and if judgment is recovered by said authorities, there shall also be recovered, in addition to having the same abated, the cost of action and the sum of one hundred dollars (\$100.00) for every day such nuisance remained after notice was given for its implementation in the manner provided in subsection D of this section. See UCA § 27-12-135.

13-13-11: SPECIFIC REQUIREMENTS:

Specific standards and requirements for the enforcement of this chapter may be adopted from time to time by the City and are made a part of this chapter by reference.

13-13-12: PENALTY:

Any person who violates the provisions of this chapter is guilty of a class C misdemeanor, punishable by a fine not to exceed seven hundred fifty dollars (\$750.00), or a jail term of up to ninety (90) days, or by both such fine and jail term.

Violators of this chapter are also subject to any penalties that may be imposed by the state of Utah, or the federal government, under the clean water act.

In addition to any criminal fines and/or penalties which may be assessed for a violation of this chapter, Oakley City shall have the right to issue a stop work order on the entire construction site, and/or install or maintain appropriate erosion control and sediment control measures on any site which is required to have such measures in the event that

construction activity is commenced or continued without such measures having been installed or required by this chapter. Oakley City shall have the right to have such measures installed and maintained by City personnel or to hire a private contractor to perform such work at the expense of the permittee, property owner, developer or contractor responsible for such measures. The City may assess said expenses against the bond posted by the permittee.

It is unlawful for any person, firm, public utility, public agency, or corporation to continue any further work on the construction site after a stop work order has been issued. A violation of a stop work order is punishable as a class C misdemeanor.

Oakley City may also pursue civil remedies for a violation of this chapter.

CHAPTER 14 NONSTORMWATER DISCHARGES

SECTION CONTENTS:

- 13-14-1: Purpose; Intent**
- 13-14-2: Definitions**
- 13-14-3: Applicability**
- 13-14-4: Responsibility for Administration**
- 13-14-5: Ultimate Responsibility**
- 13-14-6: Discharge Prohibitions**
- 13-14-7: Suspension of Storm Drainage System Access**
- 13-14-8: Industrial or Construction Activity Discharges**
- 13-14-9: Monitoring of Discharges**
- 13-14-10: Best Management Practices**
- 13-14-11: Watercourse Protection**
- 13-14-12: Notification of Spills**
- 13-14-13: Enforcement**
- 13-14-14: Appeal of Notice of Violation**
- 13-14-15: Failure to Comply**
- 13-14-16: Penalty**
- 13-14-17: Injunctive Relief**
- 13-14-18: Compensatory Action**
- 13-14-19: Remedies Not Exclusive**

13-14-1: PURPOSE; INTENT:

The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of Oakley City, Utah, as well as the protection of the Weber River and its tributaries, through the regulation of non-stormwater discharges to the storm drainage system, waterway or any natural body of water to the maximum extent practicable as required by federal and state law. This chapter establishes methods for controlling the introduction of pollutants into the City storm sewer system in order to comply with requirements of the national pollutant discharge elimination system (NPDES) permit process. The objectives of this chapter are:

- A. To regulate the contribution of pollutants to the storm sewer system by stormwater discharges by any user,
- B. To prohibit illicit connections and discharges to the storm drain system, waterway or any natural body of water, and

- C. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter.

13-14-2: DEFINITIONS:

For the purposes of this chapter, the following terms shall mean:

AUTHORIZED ENFORCEMENT AGENCY: Employees or designees of the director of the municipal agency designated to enforce this chapter.

BEST MANAGEMENT PRACTICES (BMPs): Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

CLEAN WATER ACT: The federal water pollution control act (33 USC section 1251 et seq.), and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY: Excavation, grading, filling, or otherwise disturbing the natural environment.

ILLEGAL DISCHARGE: Any direct or indirect non-stormwater discharge to the storm drain system, waterway or any natural body of water, except as exempted in section 13-15-6 of this chapter.

ILLICIT CONNECTIONS: Is defined as either of the following:

- A. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including, but not limited to, any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency, or
- B. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by Oakley City.

INDUSTRIAL ACTIVITY: Activities subject to NPDES industrial permits as defined in 40 CFR, section 122.26 (b)(14).

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER

DISCHARGE PERMIT: A permit issued by the EPA (or by a state under authority delegated pursuant to 33 USC section 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general areawide basis.

NONSTORMWATER DISCHARGE: Any discharge to the storm drain system that is not composed entirely of stormwater.

PERSON: Any individual, corporation, partnership, association, company or body politic, including any agency of the state of Utah and the United States government.

POLLUTANT: Anything which causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

PREMISES: Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

STORM DRAINAGE SYSTEM: Public or privately owned facilities by which stormwater is collected and/or conveyed, including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural water bodies and human made or altered drainage channels, reservoirs, and other drainage structures.

STORMWATER: Stormwater runoff, snowmelt runoff, and surface runoff and drainage.

STORMWATER POLLUTION PREVENTION PLAN (SWP3): The plan required by Oakley City ordinance that describes BMPs and activities to be implemented to eliminate or reduce pollutant discharges to stormwater.

WASTEWATER: Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

13-14-3: APPLICABILITY:

This chapter shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

13-14-4: RESPONSIBILITY FOR ADMINISTRATION:

The Oakley City Engineer and County health department shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the authorized enforcement agencies may be delegated in writing by the director of the authorized enforcement agencies to persons or entities acting in the beneficial interest of or in the employ of the agency.

13-14-5: ULTIMATE RESPONSIBILITY:

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore this chapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

13-14-6: DISCHARGE PROHIBITIONS:

- A. **Prohibition of Illegal Discharges:** It shall be unlawful and punishable as a class C misdemeanor for any person who discharges or causes to be discharged into the storm drain system or watercourses any materials, including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:
1. The following discharges are exempt from discharge prohibitions established by this chapter: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active ground water dewatering systems), crawl space pumps, air conditioning condensation, springs, noncommercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated, typically less than 1 ppm chlorine), firefighting activities, and any other water source not containing pollutants.
 2. Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
 3. Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.
 4. The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order

issued to the discharger and administered under the authority of the federal environmental protection agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

B. Prohibition of Illicit Connections:

1. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
2. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
3. It is unlawful for any person to connect a line conveying sewage to the storm drainage system, or allow such a connection to continue.

13-14-7: SUSPENSION OF STORM DRAINAGE SYSTEM ACCESS:

A. Suspension Due to Illicit Discharges in Emergency Situations: The authorized enforcement agency may, without prior notice, suspend discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the storm drainage system or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the storm drainage system or waters of the United States, or to minimize danger to persons.

B. Suspension Due to The Detection of Illicit Discharge:

1. Any person discharging to the storm drainage system in violation of this chapter may have their storm drainage system access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its storm drainage system access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.
2. A person commits an offense if the person reinstates storm drainage system access to premises terminated pursuant to this section, without the prior approval of the authorized enforcement agency.

13-14-8: INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES:

Any person subject to an industrial or construction activity SWP3 or ECP permit and/or NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the

authorized enforcement agency prior to the allowing of discharges to the storm drainage system.

13-14-9: MONITORING OF DISCHARGES:

- A. **Applicability:** This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

- B. **Access to Facilities:**
 - 1. The authorized enforcement agency shall be permitted to enter and inspect facilities subject to regulation under this chapter as often as may be necessary to determine compliance with this chapter. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.
 - 2. Facility operators shall allow the authorized enforcement agency ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
 - 3. The authorized enforcement agency shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.
 - 4. The authorized enforcement agency has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
 - 5. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the authorized enforcement agency and shall not be replaced. The costs of clearing such access shall be borne by the operator.
 - 6. Unreasonable delays in allowing the authorized enforcement agency access to a permitted facility is a violation of a stormwater discharge permit and of this chapter. A person who is the operator of a facility with an SWP3 or ECP and/or an NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this chapter.

7. If the authorized enforcement agency has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

13-14-10: BEST MANAGEMENT PRACTICES:

Oakley City's stormwater pollution prevention ordinance outlines requirements identifying best management practices for activities, operations, or facilities which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the stormwater system. Compliance with all terms and conditions of a valid SWP3 or ECP permit and/or NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section.

13-14-11: WATERCOURSE PROTECTION:

It is unlawful for any person owning property through which a watercourse passes, or such person's lessee, to not keep and maintain that part of the watercourse within the property free of trash, debris, noxious weeds or vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, it is unlawful for the person owning or the lessee to not maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

13-14-12: NOTIFICATION OF SPILLS:

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible person for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater,

the storm drain system, or waters of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Oakley City, or the Summit County Health Department [insert addresses] within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

13-14-13: ENFORCEMENT:

- A. **Notice of Violation:** Whenever the authorized enforcement agency finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require, without limitation:
1. The performance of monitoring, analyses, and reporting;
 2. The elimination of illicit connections or discharges;
 3. That violating discharges, practices, or operations shall cease and desist;
 4. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property; and
 5. The implementation of source control or treatment BMPs.
- B. **Timelines for Remediation or Restoration:** If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator. Failure to correct a notice of violation is punishable as a class C misdemeanor.

13-14-14: APPEAL OF NOTICE OF VIOLATION:

Any person receiving a notice of violation may appeal the determination of the authorized enforcement agency pursuant to the administrative code enforcement hearing program. A notice of appeal must be filed with the administrative law judge within ten (10) calendar days of the denial or imposition of conditions of the permit. The notice of appeal shall contain the following information:

- A. An application with applicant's name, address and daytime telephone number;
- B. A statement describing the basis for the appeal; and

- C. The relief sought by the applicant.

13-14-15: FAILURE TO COMPLY:

In the event of failure on the part of any person, firm, public utility, or corporation to comply fully with the provisions of this chapter, Oakley City is authorized to:

- A. Initiate criminal action by citation or information under section 13-14-16 of this chapter; or
- B. Give written notice to such person, firm, public utility, or corporation to abate the violation and/or restore the property. Such notice may be served either by personal service or by mailing the notice to the person, firm, public utility, or corporation by certified mail and posting a copy thereof on such installation for a period of ten (10) days. If the violation is not abated or restored within ten (10) days after the notice is complete, said authorities may abate the same at the expense of the person, firm, or corporation and recover costs and expenses, and also the sum of one hundred dollars (\$100.00) for each day the violation continues after the notice was complete, in an action for that purpose; or
- C. If such person, firm, public utility, or corporation refuses to abate the violation and/or restore the property, said authorities may bring an action to abate the same as a nuisance, and if judgment is recovered by said authorities, there shall also be recovered, in addition to having the same abated, the cost of action and the sum of one hundred dollars (\$100.00) for every day such nuisance remained after notice was given for its implementation in the manner provided in subsection B of this section. See UCA § 27-12-135
- D. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

13-14-16: PENALTY:

Any person who violates the provisions of this chapter is guilty of a class C misdemeanor, punishable by a fine not to exceed seven hundred fifty dollars (\$750.00), or a jail term of up to ninety (90) days, or by both such fine and jail term. Violators of this chapter are also subject to any penalties that may be imposed by the state of Utah, or the federal government, under the clean water act.

13-14-17: INJUNCTIVE RELIEF:

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of this chapter, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

13-14-18: COMPENSATORY ACTION:

In lieu of enforcement proceedings, penalties, and remedies authorized by this chapter, the authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

13-14-19: REMEDIES NOT EXCLUSIVE:

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

CHAPTER 15 SENSITIVE LANDS REGULATIONS

SECTION CONTENTS:

- 13-15-1: Sensitive Lands Purpose; Intent**
- 13-15-2: Definitions**
- 13-15-3: Scope and Application**
- 13-15-4: Density and Lot Size**
- 13-15-5: Lot Coverage, Usable Land and Trails Upon Hillsides**
- 13-15-6: Development Standards**
- 13-15-7: Review and Approval Procedure**
- 13-15-8: High Water Table Areas**
- 13-15-9: Floodplain Areas**
- 13-15-10: Alteration or Relocation of Natural Waterways**
- 13-15-11: C.E.D.A.R. Review Standards**
- 13-15-12: Wetland, Riparian, And Watercourse Regulations**

13-15-1: SENSITIVE LANDS PURPOSE; INTENT:

Sensitive lands, as identified in the General Plan maps and the Sensitive Lands Overlay (SLO) Zone, (see section 13.4.15), require careful review to ensure that the lands remain protected from adverse development impacts which could affect wildlife, wetlands, riparian areas, water quality, and other natural features. Upon field inspection, sensitive lands may extend beyond the boundaries of current maps and will require compliance with this Title and the General Plan to provide adequate information for decisions and proper mitigation measures as a condition to development approvals.

This Chapter provides standards, guidelines and criteria having the effect of minimizing flooding, erosion and other environmental hazards and protecting the natural scenic character of the hillside areas and ensuring the efficient expenditure of public funds. The standards, guidelines and criteria established by this chapter are in addition to all other development regulations of this Title and shall include, but shall not be limited to, the following:

- A. The protection of the public from natural hazards of stormwater run-off and erosion by requiring properly designed drainage facilities and the minimal removal of natural vegetation and disturbed ground.

- B. The minimization of the threat and consequential damages of fire in hillside areas and river wooded areas by establishing adequate fire protection measures.
- C. The preservation of natural features, wildlife habitat, wetlands, riparian areas, watercourses, water quality, and open space.
- D. The preservation of public access to mountain areas and natural riverways and drainage channels.
- E. The retention of natural topographic features such as drainage channels, streams, ridge lines, rock outcroppings, vistas, trees and other natural plant formations.
- F. The preservation and enhancement of visual and environmental quality by use of natural vegetation and the prohibition of excessive excavation and terracing.
- G. The assurance of an adequate transportation system for the total hillside area to include consideration of any approved Master Street Plan of the city. This system design will consider densities and topography with minimal cuts, fills or other visible scars.
- H. The establishment of on-site and off-site traffic facilities that ensure ingress and egress for vehicles including emergency vehicles into all developed areas at any time.
- I. The encouragement of a variety of development designs and concepts that are compatible with the natural terrain of the sensitive areas and will preserve open space and natural landscape as outlined in the C.E.D.A.R processes of the Oakley City General Plan and this Chapter.
- J. The establishment of land use management criteria that will encourage protection of natural elements while allowing a harmonious and satisfying residential environment.
- K. The encouragement of location, design and development of building sites or envelopes to provide maximum safety and human enjoyment while adapting the development to the best use of the natural terrain.
- L. The encouragement of the use of creative design teams composed of professional landscape architects, engineers and others.
- M. The encouragement of a regard for the view of the hillsides as well as a view from the hillsides.

13-15-2: DEFINITIONS:

As used in this chapter:

"**Development Site**" shall mean and include the total perimeters of: A subdivision, as defined elsewhere in this Title. A tract, lot or parcel of land intended to be used as a commercial, public, quasi-public, utility or other building site.

"**Natural Vegetation**" shall include but not be limited to: orchards, trees, shrubs, non-native and native grasses and forbs, and perennial growth.

"**Institutional Buildings**" shall include, but not be limited to: churches, schools, hospitals, public and quasi-public buildings.

"**Impervious Materials**" shall mean matter that is impenetrable by moisture.

"**Gross Acreage**" shall mean the total area of the development, including all rights of way and other nonresidential uses.

"**Net Residential Acreage**" shall mean all land within a development site devoted exclusively to a residential use.

"**Usable Land**" shall mean that contiguous parcel of natural land and/or compacted (engineered) fill, as permitted by this Title or the Uniform Building Code, included within the lot, no part of which has a slope exceeding thirty (30) percent.

"**Open Space**" shall mean that land designated and approved as deed restricted open space on the development site plan.

13-15-3: SCOPE AND APPLICATION:

Jurisdiction of Sensitive Lands Overlay Zone: The provisions of this chapter shall apply to all lands in the city which lie within the area designated as the "Oakley City Sensitive Lands Overlay (SLO) Zone". Said map is attached hereto and incorporated herein by reference. Regulations of this chapter may apply to an area outside of the mapped Overlay Zone if the city planner determines that the environmental conditions of the subject area qualify it as a sensitive lands area. All approved subdivision plats that lie within the area designated as the "Sensitive Lands Overlay (SLO) Zone" shall be recorded as so and shown on the lots.

- A. **Effect of Provisions.** This chapter makes additional provisions to those set forth elsewhere in this Code, as amended. In the event of conflict between such

additional provisions and the provisions of this chapter, the more restrictive provisions shall apply.

- B. **Application to Previous Developments.** The provisions of this chapter shall have no application to any development or other construction project which has been granted preliminary approval prior to the effective date of this Code.
- C. **Application to Project.** Any new subdivision of any lot quantity or development project which encompasses wholly or partially any Sensitive Lands as defined or determined by this chapter must be processed under this Title as a Master Planned Development (MPD).
- D. **Defined Building Envelopes.** All subdivisions and developments located within the Sensitive Lands Overlay (SLO) Zone or determined to contain sensitive lands must show on the plat a defined and surveyed and permitted building pad or envelope for each residence or structure. This delineation must clearly identify the permitted building(s) area(s) as well as any ancillary disturbed land for landscaping purposes, etc.

13-15-4: DENSITY AND LOT SIZE:

Residential lot sizes allowed within the Sensitive Area Overlay Zone shall be the same as that allowed by the underlying zone. The maximum number of dwelling units permitted within a development or that portion of the development located within the sensitive overlay zone shall be determined by the average slope of each approved building envelope designated on the land within the development according to the following schedule. The reduction in density shown herein applies to the total density, after any bonus density has been calculated and approved by the City as per Appendix B.:

- A. No reduction in density of the underlying zone plus any bonus density approved for building envelope areas having a slope of twenty (20) percent or less.
- B. Fifty (50) percent reduction of the base density of the underlying zone plus any bonus density approved for building envelope areas having a slope of more than twenty (20) percent but less than thirty (30) percent. For example, in a proposed 10-lot subdivision with four (4) building pads on lots with a slope of between twenty (20) and thirty (30) percent, only two would be buildable, reducing the approved subdivision density to eight (8) lots.
- C. Development is not allowed for slopes over thirty (30) percent, nor shall any density credits as per Appendix B be given for slopes of more than thirty (30) percent.

- D. The determination of slope within a development shall be based upon a detailed slope analysis. The slope analysis shall be conducted using an on-site slope survey performed by a registered land surveyor. Contour maps prepared by the U.S. Geological Survey or contained within the most recent General Plan or other more detailed contour maps may be used when approved by the planning department and city engineer. Slope maps in the General Plan should be used for preliminary planning purposes only.

13-15-5: LOT COVERAGE, USABLE LAND, AND TRAILS UPON HILLSIDES:

- A. **Maximum Impervious Material Coverage.** The maximum impervious material coverage that shall be allowed upon lots;
1. Upon which single family dwelling units are located for lots less than twenty thousand (20,000) square feet shall be thirty (30) percent of the total lot area or five thousand (5,000) square feet, whichever is smaller, including dwelling units, accessory buildings, patios, and driveways.
 2. Upon which single family dwelling units are located for lots sizes twenty thousand (20,000) square feet and greater shall be fifteen thousand (15,000) square feet, including dwelling units, accessory buildings, patios, and driveways
 3. For multi-family dwellings, commercial, industrial, institutional, and accessory structures shall be determined during site plan review, and approved by the planning commission to a maximum of fifty (50) percent impervious material coverage.
- B. **Usable Land.** Single family dwelling structures shall be located only upon areas constituting usable land, which area shall be fully contiguous and shall be at least five thousand (5,000) square feet in size, and shall have a minimum dimension, either length or width, of fifty (50) feet.
1. Location of a dwelling structure shall not be within an average of twenty (20) feet (no point being closer than ten (10) feet) of a continuous hillside slope (upslope or downslope) of thirty (30) percent or greater. The Engineering Department may require greater setbacks from the slopes based on unusual circumstances.
 2. Single family dwelling structures shall be set back no further than two hundred fifty (250) feet from a public road or private right-of-way.
 3. All other buildings, including clustered single family, multi-family, commercial, industrial, institutional, and accessory structures shall be located upon usable land, as may be determined through site plan review.
 4. No buildings shall be located on a ridge line, nor shall any roof line extend above said ridge lines.
- C. **Trails upon Hillsides.** A trail may be constructed to access upper/lower portions of residential property subject to the following conditions:

1. That no cut or fill of the hillside be in excess of two (2) feet. All cuts or fills shall be properly retained or restrained against erosion.
2. That the trail follows a meandering course, and not use a direct line pathway to the desired location. Where possible, the trail should follow the natural contours of the hillside.
3. That the trail be landscaped with native materials.
4. That prior to construction and/or hillside cuts, the trail plan be submitted to the Planning Department Director and city engineer for review and approval.

13-15-6: DEVELOPMENT STANDARDS:

- A. **Scope.** It is intended by this Section that the development standards and provisions, as set forth herein, shall be required in connection with all building and construction in the Oakley City Sensitive Area Overlay Zone.
1. The Planning Department may approve building permits for subdivision lots platted in prior to the adoption of the current Sensitive Area Overlay Zone. Staff shall use those Hillside regulations in effect at the time the subdivision was platted to determine setback distances from areas of thirty (30) percent slope. The following information shall be submitted to the planning office before city staff may approve a building permit:
 - a. Submittal by the applicant of a geotechnical report (prepared by a professionally licensed engineer or other qualified individual) that would establish the following:
 - (1) The depth of virgin soil below grade; and
 - (2) Soil compaction and stability; and
 - (3) Rock fall and debris flow potential.
 - b. Submittal by the applicant of a plot plan to include the following information:
 - (1) Home location; and
 - (2) Contour lines at two-foot interval; and
 - (3) Retaining walls, if determined necessary by the Oakley City Engineering; and
 - (4) Vegetation types and locations.
 - c. The plot plan shall be accompanied by a cross-section showing the information required in subsection B above and driveway slope and slope percentage for each change in slope.
 - d. All requirements of the current Development Code such as driveway slopes and cuts and fills shall remain in force.
- B. **Drainage and Erosion.** The area of the watershed shall be used to determine the amount of stormwater runoff generated before and after construction.

1. The "Rational Method" or other method as approved by the city engineer shall be used in computing runoff. The basic formula for the "Rational Method" is:

Q = CIA in which:

Q = Runoff in cubic feet per second (c.f.s.)

C = Coefficient of runoff or the portion of stormwater, which runs off a given area.

The following ranges for "C" value are typical examples. The actual "C" value used shall be approved by the city engineer.

Type of Development Runoff Coefficient:

Industrial & Commercial .80 - .90

Residential .30 - .40

Parks .15 - .24

Agricultural .10 - .20

I = Average rainfall intensity during time of concentration for twenty-five (25) year return period in inches per hour. The time of concentration shall be defined as the time required for water to flow from the most remote point of the section under consideration.

A = Drainage area in acres.

2. Lots shall be arranged so as to ensure adequate setbacks from drainage channels. The one hundred (100) year storm shall be that basis for calculating setbacks. No structures shall be allowed in the one hundred (100) year floodplain.
3. Facilities for the collection of stormwater runoff shall be required to be constructed on development sites and according to the following requirements.
 - a. Such facilities shall be the first improvement or facilities constructed on the development site, with the exception of sewer and water lines.
 - b. Such facilities shall be designed so as to detain safely and adequately the maximum expected stormwater runoff for a twenty-five (25) year storm, not to exceed .2 cubic feet per second per acre or at a low rate or at a rate not higher than the flow rate before construction, whichever is less, on the development site, for a sufficient length of time so as to prevent flooding and erosion during stormwater runoff flow periods.

- c. Such facilities shall be so designed as to divert surface water away from cut faces or sloping surfaces of a fill.
 - d. The existing natural drainage system will be utilized, as much as possible, in its unimproved state.
 - e. Where drainage channels are required, wide shallow swales lined with appropriate vegetation shall be used instead of cutting narrow, deep drainage ditches.
 - f. Flow retarding devices, such as detention ponds and recharge devices, shall be used where practical to minimize increases in runoff volume and peak flow rate due to development. Areas which have shallow or perched groundwater or areas that are unstable must be given additional consideration.
- 4. Construction on the development site shall be of a nature that will minimize the disturbance of vegetation cover, especially between October 15 and May 1 of the following year.
 - 5. Erosion control measures on the development site shall be required to minimize the increased solids loading in runoff from such areas. The detailed design system to control stormwater erosion during and after construction shall be contained in the Grading and Drainage Report described in section 11.6.B.

C. Vegetation and Revegetation:

- 1. All areas on development sites cleared of natural vegetation in the course of construction of off-site improvements shall be replanted with re-vegetation which has good erosion control characteristics.
- 2. New planting shall be protected with mulch material and fertilized in conjunction with the planting and watering schedule described in (5) below.
- 3. The use of persons or firms having expertise in the practice of re-vegetation (i.e., licensed landscape architects or nurserymen) shall supervise the planting and installation of re-vegetation cover.
- 4. Vegetation shall be removed only when absolutely necessary, e.g., for the construction of buildings, roads and filled areas.
- 5. After the completion of off-site improvements vegetation shall be planted in a mixture of plant materials; i.e., trees, shrubs, grass, and forbs. Native plant materials are preferred.
- 6. No vegetation shall be removed on a continuous hillside, crest (upslope or downslope) or a slope 30% or greater unless otherwise determined by the planning commission upon recommendation of the Engineering Department for uses such as trails and open space improvements. Any revegetation of such a hillside shall have the approval of the Engineering Department.
- 7. Topsoil removed during construction shall be conserved for later use on areas requiring vegetation or landscaping; i.e., cut and fill slopes.

8. All disturbed soil surfaces shall be stabilized or covered prior to the fifteenth (15th) day of October. If the planned impervious surfaces (i.e., road, driveways, etc.) cannot be established prior to October 15, a temporary treatment adequate to prevent erosion shall be installed on those surfaces. Said treatment shall be approved by the city engineer.
9. The property owner and/or developer shall be fully responsible for any destruction of native or applied vegetation identified as necessary for retention and shall be responsible for such destroyed vegetation. They shall carry the responsibility both for employees and subcontractors from the first day of construction until the final acceptance of improvements. The property owner and developer shall replace all destroyed vegetation with varieties of vegetation approved by the planning commission. The property owner shall assume co-responsibility with the developer upon purchase of the lot.

D. Geology:

1. No structures shall be built on any zones of deformation with respect to active faults that the city has identified. Off-site improvement design will be approved by the planning commission.
2. No structures or off-site improvements shall be allowed on any active landslide area.
3. Problems associated with development on or near perched groundwater and shallow groundwater must be mitigated in a manner as approved by the planning commission.
4. No structures shall be allowed in any rock fall zone. Off-site improvements may be allowed through special approval by the planning commission.

E. Fire Protection:

1. Areas without a recognized water supply shall meet special requirements, on an individual basis, as established by the South Summit Fire District, the International Fire Code and the planning commission.
2. Each development site and building permit for lots where the front setback is greater than 50 feet, shall be reviewed by the South Summit Fire District to see that it complies with the International Fire Code, Section 503 Access Roadways for Fire Apparatus. Access requirements shall comply with the ordinances of Oakley City.
3. Spark arresters shall be installed in every fireplace constructed indoor or outdoor. Screen openings in such arresters shall not be in excess of ____ inch diameter.
4. Development adjacent to public lands shall provide access for fire protection vehicles and equipment.

F. Grading— Cuts and Fill:

1. Exposed unstable surfaces of an excavation or fill shall not be steeper than one (1) vertical to two (2) horizontal.
2. All permanent fill shall be located so that settlements, sliding, or erosions shall not damage or cover streets, curbs, gutters, sidewalks or buildings.
3. The top and bottom edges of slopes caused by an excavation or fill up to ten (10) vertical feet shall be at 3 horizontal feet from the property line or public right-of-way lines.
4. The maximum vertical height of all cuts or fills shall be ten (10) feet.
5. All structures, except retaining walls or soil stabilization improvements, shall have a setback from the crest of the fill or base of the cut of a minimum distance equal to the depth of the fill or the height of the cut, unless a structurally sound retaining wall is built for the cut or fill slope. Retaining walls may be a part of the dwelling unit.
6. No grading, cuts, fills, or terracing will be allowed on a continuous hillside, crest (upslope or downslope) or a slope of thirty (30) percent or greater.

G. Public road or private right-of-way. Streets, roadways and private driveways shall follow as nearly as possible the natural terrain. The following additional standards shall apply:

1. At least one (1) ingress and one (1) egress routes shall be provided for each subdivision of 8 lots or over, unless there is a crash gate or the extension of a future stub street that will provide additional access.
2. Points of access shall be provided to all developed and undeveloped areas for emergency and firefighting equipment. Driveways located upon each lot extending from a public road or private right-of-way shall have sufficient width and design to admit and accommodate firefighting equipment (comply with all city engineering Standards).
3. Cul-de-sacs shall not exceed sixty hundred (600) feet in length and shall have a turnaround with a back of curb line radius of at least fifty-five (55) feet. Stub streets that are longer than the width or length of any adjacent single lot or two hundred (200) feet, whichever is less, shall have a temporary turnaround at the end thereof.
4. Centerline curvatures shall not be less than a one hundred (100) foot radius on any curved street pattern.
5. Variations of the street design standards developed to solve special hillside visual and functional problems may be presented to the planning commission for consideration and approval. Examples of such variations may be the use of split roadways to avoid deep cuts, one-way streets, round-about, and modifications of surface drainage treatments, sidewalk design, non-paved road surfaces on private roads, or the extension of a cul-de-sac.

6. Development sites which are located near canyon trails will provide access to those trails. Parking areas may be required by the planning commission at trail heads.
7. Developments adjacent to public lands shall provide for access by fire protection equipment.
8. The maximum amount of impervious surface for public roads or private right-of-way shall be twenty (20) percent of the entire development site.
9. All streets or rights-of-way for vehicular traffic shall be subject to the following limitations:
 - a. The maximum grade of such streets or rights-of-way shall be 8 percent.
 - b. Roads shall be designed to meet the city road base, asphalt, and grading and compaction standards.
10. Roads and bridges shall be capable of supporting the imposed load of fire apparatus weighing up to 75,000 pounds.

H. **Architectural Design:**

1. Buildings proposed for construction in hillside or canyon areas within the Oakley City Sensitive Area Zone shall be designed to be visually compatible with the natural beauty of the hillsides and canyons. The uses of building materials in colors that will blend harmoniously with the natural settings are encouraged. Such materials as natural woods, brick (earth colors) and stone are considered to be most appropriate.
2. The planning commission shall review the design and specified exterior materials and colors for all structures other than single family dwellings. Building permits for such structures shall not be granted until building materials and colors have been approved by the planning commission.
3. Innovative designs for single family dwelling units; e.g., earth- sheltered dwellings with grass roofs, etc., may be allowed after approval by the planning commission and building department.

I. **On-site Development.** The property owner shall be fully responsible for making all improvements in accordance with the development site approval; e.g., drainage, erosion and vegetation constraints.

J. **Bond.** In addition to the provisions requiring the posting of a bond as set forth elsewhere in the ordinances of Oakley City, the property owner will be required to guarantee the completion of re-vegetation projects, the stabilization of grading sites, cuts and fill and construction of stormwater runoff facilities.

K. **Fencing.** All fences located on slopes of thirty (30) percent or greater shall be field fencing or dark brown or black vinyl coated chain link or wood pole fencing to blend in with the native landscaping. In no case shall the following types of fences

be allowed: vinyl, masonry, block, wood or other sight obscuring material. Other requirements for fencing setback are contained in the individual zone regulations.

13-15-7: REVIEW AND APPROVAL PROCEDURE:

- A. **Review Process Standards.** As an application is reviewed by the planning commission and city council, the findings of fact shall be listed and included in all application approvals or denials. The decision along with the findings of fact shall be forwarded to the applicant within fifteen (15) days of any action.
- B. **Approval by the City Council.** Before a subdivision or a commercial development is allowed within the Oakley Sensitive Area Zone, approval must be first granted by the city council.
- C. **Single Family Homes.** Before construction of a single-family dwelling on an individual lot not included as part of a development site or approved subdivision shall be allowed, approval must first be granted by the planning commission, in compliance with this section. The application shall contain information, plans and reports as are required by the planning commission.
- D. **Application to planning commission.** All applications as required in this Section shall first be submitted to the planning commission for its consideration and recommendations. All site plans and/or reports as required in this Section shall be drawn to scale, not smaller than 1" = 100' and shall show topography at five (5) foot intervals. With respect to site plans and/or reports drawn to scale of 1" = 50', said site plans and/or reports shall show topographical contours at two (2) foot intervals.
- E. **Engineering Calculations Made Available to the City.** All engineering calculations performed and acquired pursuant to the provisions of the ordinances of Oakley City shall be made available to the Oakley City Engineer as a part of the review and approval process. The Oakley City Engineer shall then have access to the said engineering calculations in order to better advise the planning commission and city council with regard to further review and approval of a proposed development.
- F. **Conceptual Review.** Conceptual review of development within Sensitive Land areas is intended to be a scoping process wherein development concerns and potential environmental hazards are evaluated. Additional information, studies, and reports may be required for preliminary approval, as may be determined by the planning commission. Conceptual Review by the planning commission does not presume any kind of approval or development right for the proposed project, in whole or in part. Only by the submission and review of the required reports for preliminary approval can development potential be ascertained. Steps within the

approval process may be combined for projects within Sensitive Land area when they are more routine in nature and only when so approved by the planning commission.

1. **Subdivisions and Commercial Developments.** All applications for development shall comply with the provisions of the ordinances of Oakley City. Conceptual approval must first be completed prior to application for preliminary approval. All applications for such review shall be accompanied by a plan drawn to scale. Applications for commercial developments shall be approved by a registered architect or engineer licensed to practice in the State of Utah.
 2. **Site Plans.** Site plans shall include, in addition to the above provisions, the following:
 - a. A topographic contour map, tied to a land base survey, showing areas within the development site with slopes of less than ten (10) percent, areas between ten (10) and thirty (30) percent, and areas of greater than thirty (30) percent.
 - b. The location of the proposed, subdivisions, cluster subdivision, or commercial development, in relation to abutting public roads or private right-of-way.
 - c. The total acreage, number of lots and proposed total density and slope and slope district density for residential developments;
 - d. The location and approximate size of the proposed lots;
 - e. A general street location, width, and grade of all proposed streets and radii of any cul-de-sacs;
 - f. Location of existing or proposed schools, churches, or parks;
 - g. Location of known hazards (i.e., faults, drainages, rock fall, etc.) and the boundaries of the one hundred (100) year floodplain;
 - h. Soil type and general description;
 - i. Land use data; i.e., the amount of residential land, transportation land, etc., by acreage and percent;
 3. The planning commission shall consider said applications for subdivisions, or commercial developments. If the planning commission has a positive evaluation of the conceptual submittal they may allow the application to proceed with such conditions as may be deemed necessary to secure the purposes as set forth in this chapter.
- G. **Preliminary Approval.** In addition to the information as required for preliminary approval for subdivisions, or commercial developments, in accordance with the ordinances of Oakley City, as the case may be, such additional information as set forth in this Chapter may be required for developments in the Sensitive Area Overlay Zone. All reports as submitted herein shall be prepared by persons or firms licensed to practice their specialty or expertise in the State of Utah, if such

license for practice is required, or by one having demonstrable expertise in such field of practice.

1. **Soil Characteristics Report.** Data regarding the nature, distribution and strength of soils within the project area; the soil report shall include:
 - a. Unified classification of all solid soils with liquid limit, shrink- swell potential and general suitability for development.
 - b. Estimate of the normal highest elevation of the seasonal high water table.
 - c. Flood history and potential; proximity to known floodplain areas and drainage channels.
 - d. Topographic contours.
2. **Vegetation Report.** An application shall include slope stabilization and a re-vegetation report which shall include:
 - a. Location and identification (by species) of existing vegetation.
 - b. The vegetation to be removed and the method of disposal.
 - c. The vegetation to be planted.
 - d. Slope stabilization measures to be installed to retain and restrain the hillside against erosion.
 - e. Analysis of the environmental effect of such operations including effects on slope stability, soil erosion, water quality, fish and wildlife, and fire hazard.
 - f. Topsoil stockpile areas will be designated.
 - g. Solar orientation is recommended for review.
3. **Geologic Conditions Report.** An application shall include the following information:
 - a. Definition of any zones of deformation with respect to active faults and other mass movements of soil and rock.
 - b. Identification of anomalies of the terrain of characteristics of the geological materials which would have any potential impact upon the use of the site.
 - c. Determination of groundwater characteristics.
 - d. Depth to bedrock and geological evaluation.
 - e. Written recommendations for construction of proposed improvements to avoid impact of any potential geologic hazards.
4. **Grading and Drainage Report.** The application for preliminary approval shall include a stormwater management and erosion grading plan (see 13-15-9 below) on the methods by which surface water, natural drainages, flooding, erosion and sedimentation loss will be accommodated during and after construction. The plan shall include the following information:
 - a. Grading Plan. The grading plan shall show present topography, tied to a land base survey, to include elevations, lines and grades including the location and depth of all proposed fills and cuts of the finished earth surfaces using a contour interval of two feet or

less. Access or haul road location, treatment and maintenance requirements shall be included.

Depending upon the slope and complexity of a development within the Sensitive Area Overlay Zone, the planning commission may require proposed lots and/or streets to be staked for field inspection before plat approval.

- b. Generally 1"= 100' or larger.
- c. Cleared Area. The proposed area to be graded shall be clearly delineated on the plan and the area amount stated in square feet.
- d. Calculations and Details. All calculations and proposed details used for design and construction (of debris basins, impoundments, diversions, dikes, waterways, drains, culverts and other water management or soil erosion control measures) shall be shown.

Calculations shall employ predictions of soil loss from sheet erosion using the Universal Soil Loss Equation or appropriate equivalent. Equations should include factors of:

- (1) Rainfall intensity and energy
- (2) Soil erodibility
- (3) Land slope and length of slope or topography
- (4) Condition of the soil surface and land management practices in use
- (5) Surface covers; grass, woodland, crop, pavement, etc.

- 5. **Other Reports.** Depending on the proposed location of the project, the application for preliminary approval may also be required to provide reports with detailed findings and plans as follows:
 - a. High water table analysis as detailed in 13-15-8 below.
 - b. Alteration or relocation of natural waterways as detailed in 13-15-10 below.
 - c. C.E.D.A.R. reports and plans as detailed in 13-15-11 below.
 - d. Wetland, riparian, and watercourse regulations as detailed in 13-15-12 below.

H. **Final Approval:**

- 1. The final application filed with the planning commission shall be an application for final approval. Such application shall include the information required and shall be considered in the manner established by the provisions of the ordinances of Oakley City as they pertain to the proposed development.

2. Application for final approval shall include with the improvements drawings, spot elevations on all lot corners or contour grading plans of all lot frontages. The scale will be the same as the improvement drawings.
- I. **Construction, Grading and Contour Map and Issuance of Building Permits:** There shall be no construction, development or grading upon the development site until final approval has been granted, as provided in this Section. Before the construction of single-family dwelling units upon lots shall be allowed, a plot plan drawn to a scale (at least 1"= 10') for such lots shall be submitted to the planning commission or the designated representative, which plot plan shall show lot lines, existing and proposed contours at two-foot intervals, location of proposed single family dwelling units, walks, driveways, patio areas. The plot plan will also show vegetative, drainage, and erosion controls and such plot plan shall be attached to the building permit.

13-15-8: HIGH WATER TABLE AREAS:

In areas that are known for the potential of groundwater impacts, a groundwater investigation shall be made by a geotechnical engineer and provided to the city for review with the application for final plat approval to include the following:

- A. What mitigation measures should be taken to assure that homes will be protected from potential groundwater impacts, including a proposed method of groundwater disposal to be reviewed and approved by the city engineer or his/her designee.
- B. The developer shall provide groundwater information to each lot purchaser/owner and disclose the information on the plat.
- C. Due to the high-water tables in Oakley City basements are strongly discouraged. Plats in high water table areas shall have a warning printed on the plat stating that basements are strongly discouraged, and that the city of Oakley assumes no responsibility or liability for damage done by high water tables to basements.
- D. Any proposed or existing drainage plans for high water table areas are prohibited from using sump pumps, French drains, or other like devices which drain into the sanitary sewer system.
- E. If irrigation ditches cross through the proposed property, the developer will be required to determine water table during irrigation season. It will be up to the developer to consult with the appropriate Ditch Company during all stages of development.

- F. Groundwater drainage systems, if required, shall be designed and installed in accordance with construction standards and specifications determined by the city engineer.
- G. All drainage systems shall be extended to the outermost boundaries of the subdivision by the developer.
- H. The developer shall install or replace, when required by the city, all sewer and water systems within a high-water table area to eliminate or minimize possible damage to such systems.
- I. The city may prohibit basements in high water table areas upon recommendation from the city engineer.

13-15-9: FLOODPLAIN AREAS:

In any subdivision in or adjacent to a floodplain identified by the Federal Emergency Management Agency (FEMA), the developer shall comply with the provisions of the currently adopted City Floodplain ordinance and this chapter.

- A. Design and develop the subdivision to provide each lot with a buildable area that will permit the lowest floor elevation, including the basement, to be constructed one (1) foot above the one hundred (100) year flood elevation. The developer is required to obtain an elevation certificate prior to issuance of building permits.
- B. Design the subdivision to minimize the effects of flooding and to facilitate the flow of surface water runoff.
- C. Submit the following base flood elevation data with the application for preliminary plat approval:
 - 1. The elevation of the one hundred (100) year flood elevation in relation to mean sea level; also, as noted on FEMA maps.
 - 2. The elevation of the lowest floor level, including basements, of proposed dwellings. An elevation certificate will be required for all dwellings in areas adjacent to a floodplain.
 - 3. Install or replace, when required by the city, all sewer and water systems within an identified floodplain to eliminate or minimize possible damage to such systems, discharge from such systems into flood water, or infiltration of floodwaters into such systems.
 - 4. All new storm drain and water systems shall be approved to ensure compliance by the Oakley City Public Utilities Department.
 - 5. All subdivisions within a floodplain area shall conform with all regulations of this Sensitive Lands Chapter.

13-15-10: ALTERATION OR RELOCATION OF NATURAL WATERWAYS:

Alteration or relocation of any natural waterway shall receive approval from the Army Corps of Engineers. See 13-15-12 for detailed regulations. A request for alteration or relocation of a natural waterway shall be accompanied by appropriate approval by the city engineer or his/her designee to ensure the following:

- A. That the flow capacity and velocity of the waterway will not change with the proposed alteration or relocation.
- B. That the soils conditions in the proposed location will not increase flooding potential.
- C. That the proposed waterway can be adequately maintained.

13-15-11: C.E.D.A.R. REVIEW STANDARDS:

Sensitive lands projects will utilize CEDAR (Cultural, Environmental, Developmental, Agricultural, and Recreational) land preservation standards. CEDAR Land Preservation Standards are a variation on earlier “density zoning” or “performance zoning” techniques. This technique excludes the most culturally and environmentally sensitive lands from development. Depending on the specific type of land sensitivity, the restriction can prohibit construction, grading, and cleaning. “Net-Outs” of constrained land are subtracted from the total property available at the buildable acreage for purposes of calculating the number of lots or the commercial building square footage the property may contain. The percentage of constrained land netted-out of the maximum lot or square footage calculation varies by the type of land sensitivity present on the property. For optimum placement of house sites and to limit the percentage of the development parcel that is converted from woodland, meadow, or farmland to suburban lawn, CEDAR Land Preservation Standards are combined with the City’s green space subdivision design techniques. Further concepts and preservation techniques are detailed in the General Plan. The concepts and standards of this section may be applied to any Master Planned Development (MPD) which requests or receives a Bonus Density, as per Appendix B.

- A. All subdivisions containing four (4) or more lots must be prepared by a team, including a landscape architect and an engineer (if determined by the City Planner), and be based on a qualified survey. The sequence of the four steps in the CEDAR design process is critical.
 - 1. The first step is the identification of “Absolute” Areas. These include both the unbuildable sensitive lands (i.e., wet, flood-prone, steep) and other most-significant CEDAR elements that in conventional development design

typically would not be earmarked as features to be designed around. The first step also identifies the “Relative” Areas consisting of richly vegetated lands, large trees, prime farmland, ecological meadows, upland habitat, historic buildings, geologic formations, and scenic views (particularly from public roads), including any planned recreational, trail, and cultural sites. In identifying Absolute and Relative Areas, this design approach seeks to accommodate those unique places both existing and planned for the future, that make each community a distinctive and attractive place. Green space design, with its CEDAR analysis, is well suited to implementing both the intent and the spirit of the City’s objectives for open space preservation. Identifying these Absolute and Relative areas is a relatively easy task, once the CEDAR analysis Maps have been prepared.

2. In the second step, once the Absolute and Relative Areas have been identified, (the most critical stage of the process) in residential developments, house sites are located through limits of disturbance envelopes to maximize views of, and often-direct access to, the preserved green space, enhancing the house sites’ desirability and value. Siting the homes in this manner provides developers with a strong marketing advantage compared with layouts, where homes are boxed on all sides by other house lots. Similarly, in nonresidential development, the second step involves locating office and other building pads to maximize their lease liability with regard to views of the green space, access, visibility to customers, buffering, and continuity with development on neighboring sites. Somewhat more difficult with nonresidential projects is the accommodation of views into, through, and out of the site. Building mass tends to be larger, therefore, in some situations calling for greater setback than with residential. Ample commercial building setbacks should be established in the ordinance, with provisions to adjust them downward if warranted when a specific site plan with building mass comes before the City for review.
3. The third step—the aligning of streets and trails, is almost a matter of “connecting the dots” for vehicular, pedestrian, and equestrian access. In nonresidential development, including mixed village use and commercial areas, frequently, there will be instances where civic nodes have been identified for future use, which nodes may spill into multiple developments. In such cases, it is essential that the street-and-trail planning step provides for joint planning among neighboring parcels and sometimes even involve cost-sharing discussions for certain extraordinary facilities of mutual benefit to all developers at the node.
4. The fourth and final step of drawing in the lot lines typically involves little more than marking boundaries midway between house locations or, in the case of nonresidential development, filling in commercial lot lines and site

design details. In nonresidential projects as with residential, flexibility, and diversity in acceptable project types is the key to creating vibrant, successful communities through defensible City processes.

13-15-12: WETLAND, RIPARIAN, AND WATERCOURSE REGULATIONS:

A. **Findings of Fact.** The legislative body of Oakley City (the “City”) determines that protection of all waters is critical to the health, safety, and welfare of the citizens of Oakley City. The intent of this section is to provide an integrated, cooperative approach to the protection of Weber River system and related wetlands, riparian areas, and watercourses. It is the goal to restore and maintain the physical, biological, and chemical integrity of all waters. Some of the waters of Oakley City have been degraded by pollution, fills, drainage, channelization, grading, excavation, over grazing, and other activities. Destruction and degradation of wetlands, riparian areas, and watercourses results in increased downstream water pollution, flooding, and erosion. Protection of wetlands, riparian areas and watercourses is needed to protect functions such as:

1. Provide flood conveyance and storage capacity which reduces downstream flood hazards by absorbing peak flows, slowing the velocity of flood waters, and regulating base flow;
2. Reduce the need for costly engineering solutions for flooding and erosion such as rip rap, retention basins, and dams;
3. Stabilize the banks of watercourses to reduce bank erosion and downstream transport of sediments eroded from watercourse banks;
4. Provide stormwater detention and purification;
5. Provide living, breeding, nesting and feeding environments for many forms of wildlife by maintaining diverse and connected riparian vegetation including waterfowl, shorebirds, salamanders, frogs, and deer;
6. Treat polluted surface/subsurface waters through biological degradation and chemical oxidation;
7. Reduce additional nonpoint pollution of waters by providing buffers;
8. Protect nursery grounds and sanctuaries for fish;
9. Help maintain water temperatures and oxygen levels in rivers, streams, lakes, ponds, and other waters;
10. Provide recreation areas for hiking, bird watching, biking, photography and other recreation uses;
11. Maintain potable water supplies in rivers and streams; and
12. Reduce community flood, erosion, and other natural hazard losses.
13. Activities in wetland, riparian areas, and watercourses are often subject to flood and erosion hazards and exacerbate hazards on other lands. Buildings, roads, and other infrastructure located in such areas are often damaged by floods and erosion and require expensive emergency rescue and disaster assistance.

B. **Purposes.** The purpose of this section is to protect the valuable and limited water resources in the City. Loss of waters is contrary to the public health, safety, and welfare. More specific goals include:

1. Achieve no net loss in the quantity, quality, functions and biological diversity of wetlands, riparian areas, and watercourses;
2. Avoid direct or indirect impacts from activities that destroy or diminish the quantity, quality and biological diversity of wetlands, riparian areas, and watercourses;
3. Provide ecologically sound transitions between waters and upland areas;
4. Replace wetland, riparian area, and watercourse functions (See Section 1 above) and acreage where avoidance of activities is not practical and all practical measures have been taken to reduce impacts;
5. Prevent increases in flood, erosion, and other natural hazard losses due to destruction of wetlands and riparian areas and the filling and drainage of watercourses and degradation of their flood conveyance, flood storage, and erosion control and other functions.
6. Incorporate wetland, riparian, and watercourse protection into the City land use, planning and development approval procedures.

C. **Definitions:**

“Compensatory mitigation” means the replacement of wetland, riparian area, or watercourse acreage, function, and value to compensate for losses.

“Creation” means a human activity bringing a riparian area or wetland into existence at a site in which it did not formerly exist.

“Enhancement” means the manipulating the physical, chemical or biological characteristics of a wetland, riparian area or watercourse to increase or improve specific functions or to change the growth stage or vegetation present.

“Floodplains” means areas subject to periodic inundation when a river, stream, or other watercourse overflows its banks. They are relatively flat areas or lowlands adjoining the channel of a river, stream or watercourse or other body of water. They include but are not limited to those mapped by the Federal Emergency Management Agency shown as flood hazard areas on the Oakley City Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency for the administration of the National Flood Insurance Program.

“Floodways” means the channel of any rivers, stream or other watercourse and the portions of the adjoining floodplain required to carry a discharge flood without raising flood waters and velocities more than a defined amount.

“National Wetlands Inventory Maps (NWI)” are a series of maps produced by the U.S. Fish and Wildlife Service showing the general location and classification of wetlands. Some wetlands, particularly smaller wetlands, are not shown on these maps. In addition the criteria used for mapping wetlands in the NWI does not fully coincide with the definition of wetland provided below. The definition of wetland provided below and field surveys provided by the Planning Commission or provided by a permit applicant and reviewed and approved by the Planning Commission shall provide the basis for more specific and accurate designation of wetlands and wetland.

“Ordinary High-Water Mark” means the point of the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

“Regulated Activities” means all activities in regulated riparian or wetland areas or watercourses which involving filling, excavation, dredging, clear-cutting, dumping, excavation, changing of drainage, grading, placing of objects in water, excavation or any other alteration or use of a wetland, riparian area, or watercourse..

“Restoration” means manipulating the physical, chemical or biological characteristics of a site to achieve a former condition with improved wetland, riparian, or watercourse functions, values, and acreage.

“Riparian Area” The area adjacent to rivers, streams, creeks, washes, arroyos, and other bodies of water or channels having banks and bed through which waters flow at least periodically. These areas are subject to periodic flooding and are generally characterized or distinguished by a difference in plant species composition or an increase in the size and/or density of vegetation as compared to upland areas.

“Watercourses” mean rivers, streams, intermittent streams, ditches, brooks, channels, lakes, ponds, manmade ponds, estuarine waters, vernal pools, playas, and all other bodies of water, natural or artificial, intermittent or permanent, public or private which have defined banks and water at least a portion of each year. These areas are typically shown on the United States Geologic Survey topographic maps.

“Wetlands” Wetlands (as defined by the U.S. Corps of Engineers) are areas and waters that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated conditions. Wetlands generally include but are not limited to lands and waters

meeting this definition and otherwise often referred to as swamps, marshes, bogs swamps, wetland meadows, ephemeral and tributary streams vernal pools, banks, reservoirs, ponds, lakes, and lands under water bodies. The primary ecological parameters for identifying wetlands include hydric soils, hydrophytic vegetation, and hydrologic conditions reflecting temporary or permanent inundation or saturation.

“Wetlands Delineation” means the physical establishment of wetland boundaries.

- D. **Wetland, Riparian, and Watercourse Review Authority.** The City Planning Commission acts as the review authority and may advise the City Council with regard to wetland, riparian, and watercourse policies and activities and may help the Council undertake the following activities.
1. The mapping and delineation of wetlands, riparian, watercourse, floodplains, and riparian buffers,
 2. The assessment of wetland, riparian, and watercourse functions and values,
 3. The location of wetland, riparian, and watercourse boundaries on the ground,
 4. The initiation of wetland, riparian, and watercourse or riparian area enforcement actions, and
 5. The acquisition of wetland, riparian, and watercourse and related wildlife or recreation areas.
- E. **Wetland, Riparian, Watercourses Subject to This Section.** Wetlands, riparian areas, and watercourses subject to the provisions of this ordinance include the following:
1. Wetlands identified on the most recent National Wetland Inventory Maps, all other wetlands meeting the definition of wetland above, and wetland buffer areas within 75 feet of such wetlands.
 2. Riparian areas measured horizontally from the ordinary high-water mark including all lands within:
 - a. 300 feet of Weber River and related channels or streams or to the landward side of the 100-year floodplain if this is greater.
 - b. 200 feet of the Whites Creek and related channels or streams or to the landward side of the 100-year floodplain if this is greater.
 - c. 100 feet of all other rivers, streams, creeks, washes, arroyos, or other watercourses having banks and bed through which waters flow at least periodically including watercourses indicated as intermittent and perennial streams on most recent published U.S.G.S. topographic maps.
 - d. All watercourses shown as intermittent or permanent water bodies on most recent published U.S.G.S. topographic maps.

- F. **Delineation of Wetland, Riparian, Watercourse Boundaries.** Any property owner who believes that designation of an area as wetland, riparian, watercourse or associated buffer and/or boundary is incorrect may petition the Planning Commission to clarify or change the designation and/or boundary. All petitions for a clarification or change in designation shall be submitted in writing and shall include all relevant facts and circumstances which support the change. For proposed changes in boundaries, the petitioner shall provide expert proof that the designation is inconsistent with the definition of wetland, riparian, watercourse provided in this ordinance and the delineation procedures provided by the 1987 Wetlands Delineation Manual of the U.S. Army Corps of Engineers. The wetland, riparian, watercourse buffer area shall be measured perpendicularly from the boundaries of a wetland, riparian, watercourse.
- G. **Activities Allowed as of Right.** The following activities shall be allowed as of right in wetlands, riparian areas, and watercourses providing there is no fill or disturbance of natural hydrology:
1. Conservation of soil, vegetation, water, fish, shellfish, and wildlife.
 2. Outdoor recreation including nature study, hiking, horseback riding, swimming, camping, boating, trapping, hunting, fishing, shell fishing, cross- country skiing where otherwise legally permitted.
 3. Grazing, farming, nurseries, gardening, forestry and harvesting of crops. However, road construction, erection of buildings, or relocation of wetlands or watercourses, clear cutting of timber, or the mining of topsoil, peat, sand or gravel from wetlands shall require a permit as provided below.
 4. Recreational open space and other types of open space for adjacent residential, commercial, and industrial property including subdivisions.
 5. Control of mosquitos and noxious weeds if the control does involve the drainage or fill of a wetland.
 6. Maintenance of existing ditches, watercourses, farm pounds, utilities, roadways providing the activity does not involve the expansion of roadways, drainage ditches or related improvements into previously unimproved rights of way or portions of rights of way.
 7. Construction for nature study and educational purposes trails, boardwalks, viewing platforms, information kiosks, and trail signs.
 8. Maintenance of existing structures consistent with standards set forth herein.
 9. Emergency work necessary for protection of the public, health, or safety.
 10. Restoring wetlands not associated with any development proposal, providing such restoration does not affect more than one half acre.
- H. **Activities Requiring a Permit.** All activities in a regulated wetland, riparian area, or watercourse involving filling, drainage, grading or excavation, dredging, clear-cutting, removal or peat, sand or gravel, alteration of the water level or water

table, disturbance of surface drainage characteristics, sediment patterns, or flood retention characteristics or any other alteration or use of a wetland, riparian area, or watercourse not permitted by Section G above shall require a permit from the Planning Commission.

- I. **Coordination with Other Regulatory Agencies.** The goal of this ordinance is to provide a coordinated and integrated approach to protection and restoration of wetlands, riparian areas, and watercourses. The Planning Commission may require that a permit applicant obtain other federal, state, or local regulatory permits needed for a proposed activity before applying for a permit from the Planning Commission. Upon receipt of a permit application, the Planning Commission shall coordinate with other planning and regulatory with jurisdiction or potential jurisdiction over the proposed activity. The Planning Commission may also provide comments to other agencies in their permitting activities. The following activities may require additional state, federal, or local permits as well as a permit from the Planning Commission:
1. Construction of any dam or retention structure regulated by the Utah Division of Water Rights.
 2. Construction, alteration, enhancement, encroachment, or placement of any obstruction within a stream channel, pond, or lake, regulated by the Utah Division of Water Rights.
 3. Diversions, changes of water use, or appropriation of waters regulated by the Utah Division of Water Rights.
 4. Discharges of fills or pollutants into the waters of the state regulated by the Utah Division of Water Quality.
 5. The construction of septic tank/soil absorption fields in any wetland or buffer area requiring a permit from the Summit County Health Department.
 6. Any filling or grading requiring a permit from Oakley City
 7. Any land use, building construction, or subdivision permit required from Oakley City.
 8. The discharge of fill or dredged material into wetlands and watercourses regulated by the U.S. Army Corps of Engineers pursuant to Section 10 of the Rivers and Harbor Act or Sections 404 and 401 of the Federal Clean Water Act, as amended.
- J. **Information to be Provided by Permit Applicants.** The Planning Commission shall develop and make available Wetland, Riparian Area, and Watercourse permit application forms. Individuals or public or private corporations seeking a permit for a regulated activity shall fill out and submit this form to the Planning Commission. All applications for permits shall include, at the minimum, the following information:

1. Name, address, telephone number and e-mail address of owner and permit applicant (if different). This should include an appropriate engineer's or land surveyor's stamp if one has been used by the applicant;
2. A description of existing uses of the property including any structures, fills, grading, or drainage;
3. Photographs of the proposed project site showing the existing condition of the site;
4. A description of the proposed activity including the type of proposed activity, its dimensions, distance from any road or water body, and when and how it will be carried out;
5. An explanation why this activity cannot be located at an upland location;
6. A description of all measures proposed to reduce or compensate for project impacts;
7. A wetland map or boundary survey to identify which may be affected by the proposed activity;
8. A sketch map showing the entire parcel of land owned by the applicant including lot sizes and property boundaries;
9. A description of when the property was acquired;
10. A description of the zoning classification and restrictions;
11. A description of the vegetative cover of the affected area, including dominant species;
12. The 100 year flood elevation and floodplain and floodway boundaries at the project site if FEMA or other flood maps are available for the area;
13. The sites and specifications for all proposed drainage, filling, grading, dredging, and vegetation removal that may affect the wetland or buffer area;
14. A description of any existing or proposed waste disposal or water supply including septic tanks and soil absorption field and distances to wetlands, wetland buffers and other water bodies;
15. A description of restoration vegetation now in existence and proposed for all surfaces; and
16. A description of the construction sequencing and timetable for any proposed activities including description of future phases.
17. The Planning Commission may require the permit applicant to submit additional information if the Planning Commission deems such information necessary to determine compliance of a proposed regulated activity with the standards and criteria set forth in this ordinance. Such information may include:
 - a. More detailed site plans;
 - b. Description of wetland ecological communities and functions;
 - c. Description how the application will change, diminish, or enhance the ecological functions;

- d. Engineering reports and analyses where the proposed activity may be subject to flood or erosion hazards or increase such hazards of other types;
- e. Mapping or more detailed investigation of soil types where onsite waste disposal is proposed;
- f. Analysis of chemical or physical characteristics of any fill material;
- g. A stormwater management plan (if applicable);
- h. A wetland management plan; and
- i. A compensatory mitigation plan.

In the event that an application requires the City to incur additional expenses for technical assistance in the review of an application, the applicant shall pay the reasonable expenses incurred by the community. The applicant shall be notified of the expenses and shall deposit necessary funds prior to the cost being incurred by the community.

- K. **Public Notices and Hearings.** Any person filing a permit application shall give written notice thereof, by certified mail (return receipt requested) or hand delivered, to all abutters within a 1,000-foot radius of the property line, at their mailing addresses shown on the most recent applicable tax list of the Summit County Assessor's Office. The notice to abutters shall include a copy of the permit application or shall state where copies may be examined and obtained by abutters.

No sooner than 30 days and not later than 60 days after receipt of a permit application and after notice the permit application has been published in one newspaper having general circulation in the area, the Planning Commission may hold a public hearing on the application unless the Planning Commission finds that the activity is so minor as not to affect wetlands, riparian areas, and watercourse functions, values, or acreage or have impact upon public properties or the public at large. All hearings shall be open to the public.

The Planning Commission shall conduct a public hearing on all permit applications involving disturbance of more than 1,000 square feet of wetland or riparian area or more than 50 lineal feet of watercourse.

- L. **Standards and Criteria for Issuance of Permits.** The Planning Commission shall not issue or conditionally issue a permit unless it finds that the proposed activity will not, taking into account individual and cumulative effects, threaten health or safety, result in fraud, cause nuisances, impair public rights in public waters, threaten rare or endangered plant or animal species, violate pollution control standards, or violate other regulations. In addition, the Planning Commission shall not issue a permit unless it finds that

1. The permit applicant has, to the extent practical, avoided wetlands, riparian areas, and watercourses, including buffer areas for the proposed activity;
2. The permit applicant has, to the extent practical, reduced impacts to the wetlands, riparian areas, watercourses, and buffers. The height, width and length of structures will be limited to the minimum dimension necessary to achieve the desired functions;
3. The proposed activity will not cause a net loss of wetland, riparian area, and watercourse functions specified in Section A above;
4. The proposed activity will not cause a net decrease in wetlands, riparian areas, and watercourses values or acreage, taking into account the cumulative adverse effects of past and reasonably anticipated future activities;
5. The proposed activity will be set back a minimum of 40 feet from the top of the bank of any river, stream, creek, or arroyo. The Planning Commission may require a larger setback based upon flooding, erosion, pollution, endangered species, riparian or wetland functions and values, or other relevant factors;
6. The proposed activity will, to the extent practical, avoid fragmentation of wetlands, riparian areas, and watercourses and the separation of these areas from other wetlands, riparian areas, and watercourses, broader aquatic systems, and uplands by activities such as construction of dikes, levees, ditches, roads, structures, and other impediments to movement of water or biota;
7. The proposed activity will not increase flood, erosion, subsidence or other hazard on other lands and the proposed activity will not, in itself, be subject to flood and erosion hazards;
8. The proposed activity will not result in adverse modification of habitat for or jeopardize plant, animal, or other wildlife species listed as threatened or endangered by the U.S. Fish and Wildlife Service or the Utah State Division of Wildlife; and
9. The proposed activity will not violate other applicable federal, state, and local water quality, flood loss reduction, fill and grading, coastal zone management, stream protection, water supply protection, comprehensive zoning, sanitary code, and other statutes, regulations and ordinances.
10. When reviewing applications which also effect a “watercourse”, the following additional issues associated. Does the proposed project:
 - a. Maintain with particular care vegetated bank areas of rivers, streams, and other watercourses because they are often subject to high velocity flows and severe erosion;
 - b. Manage rivers, streams and riparian areas to maintain geomorphic equilibrium to reduce stream bank erosion, loss of habitat and other problems.

- c. Avoid to the extent practical the culverting of streams and other watercourses which often destroys habitat, increases the velocity of flows, causes erosion, and results in flooding of adjacent lands;
 - d. Reduce the use of riprap or other debris to stabilize stream banks because it often results in erosion of streambanks up and downstream of the riprap. It also often blocks flood flows thereby increasing flood heights and velocities on other lands, and it destroys wildlife;
 - e. Avoid activities which will prevent free passage of fish and other aquatic life; and
 - f. Prevent fills or restrictions on channels which will increase flooding on upstream and downstream properties.
11. The Planning Commission shall consider all relevant facts in making its decision on any application for a permit including but not limited to the following:
- a. The goals and purposes of the section;
 - b. The environmental impact of the proposed action including:
 - (1) Infilling of the wetlands, riparian areas, and watercourses or other modification of natural topographic contours,
 - (2) Disturbance or destruction of natural flora and fauna,
 - (3) Influx of sediments or other materials causing increased water turbidity and/or substrate alteration,
 - (4) Removal or disturbance of wetlands, riparian areas, and watercourses soils,
 - (5) Reductions in wetlands, riparian areas, and watercourses water supply,
 - (6) Interference with wetlands, riparian areas, and watercourses water circulation,
 - (7) Damaging reduction or increases in wetlands, riparian areas, and watercourses nutrients,
 - (8) Influx of toxic chemicals and/or heavy metals,
 - (9) Damaging thermal changes in wetlands, riparian areas, and watercourses water supply, and
 - (10) Destruction of natural aesthetic values.
 - c. The impact of the proposed activity and reasonably anticipated similar activities upon flood flows, flood storage, and storm barriers,
 - d. Threats to the proposed activity from flooding, erosion, high winds, subsidence, soil limitations and other hazards;
 - e. The impact of the use and existing and reasonably anticipated similar uses upon neighboring land uses;
 - f. The adequacy of water supply and waste disposal for the proposed activity;

- g. Alternatives to the proposed action and alternative sites for the activity on the applicant's property or other properties;
 - h. Whether all reasonable and practical measures have been taken to minimize the impact of activities; and
 - i. The relationship between short-term uses and long term productivity of the site; and
 - j. The consistency of the activity with local, state, and federal comprehensive land use plans and watershed plans.
12. The Planning Commission shall make written findings on any permit applicant stating the reason why the proposed permit is issued, denied, or conditionally issued or denied. The Planning Commission may consider the following in making its decision on the application:
- a. The application and supporting documentation,
 - b. Public comments, evidence, and testimony
 - c. Reports or comments from other local, state, or federal agencies and commissions, and
 - d. Comments on the application from regional planning agencies, soil and water conservation districts, or other regional organizations.

M. **Conditions Which May Be Attached to Permits.** The Planning Commission may conditionally approve permits. The following sorts of conditions may be attached to permit approvals:

- 1. Design measures to reduce project impacts;
- 2. Relocation of the proposed activity to reduce project impacts;
- 3. Compensatory mitigation measures to offset losses to wetlands, riparian areas, and watercourses acreage, functions, and values;
- 4. Flood and erosion loss reduction measures to prevent hazard losses to both proposed activities and activities on other lands. This may include a requirement that structures be elevated on piles, floodproofed or otherwise protected from hazards including flood heights, velocities, and erosion potential;
- 5. Modification of waste disposal and water supply facilities to reflect flooding, high ground water, and erosion hazards;
- 6. Inclusion in the deed for the property a warning that the property contains a wetlands, riparian areas, and watercourse and/or associated buffer area and that any activities in the areas are subject to wetland, riparian area, watercourse, floodplain and other regulatory requirements;
- 7. Deed restrictions, covenants, or execution of conservation easements regarding the future use of lands including but not limited to preservation of undeveloped areas and restrictions on vegetation removal;
- 8. Set-backs for structures from a river, stream, or other water body of a distance appropriate for the proposed activity and the particular wetland, riparian area, and watercourse area;
- 9. Erosion control and storm water management measures;

10. The clustering of structures or development;
11. Erection of wetland, riparian area, and watercourse area markers and signs including survey stakes delineating the boundary between such areas and adjacent lands;
12. Long term monitoring and management requirements including control of exotic plant and animal species; and
13. Other conditions necessary to protect wetland, riparian area, and watercourse functions, offset losses, and prevent increased natural hazard losses in the community.
14. The Planning Commission may also require the development of a wetlands, riparian areas, and watercourse management plan and/or a compensatory mitigation plan to comply with these standards and criteria. See Sections N and O below.

N. Wetland, Riparian Area, Watercourse Management Plans. The Planning Commission may require a permit applicant to prepare a wetland, riparian area, and/or watercourse management plan if the Planning Commission determines that such a plan is needed to apply the standards set forth in this ordinance or to achieve the goals and standards of this ordinance. In general, plans are needed where long term and large-scale management of a wetland, riparian area, or watercourse is required such as manipulation of water levels, control of exotic plant species, or periodic harvesting of timber. Plans are generally required for large projects. A plan shall be consistent with the following:

1. The plan shall describe any long-term management proposed for the site, how this management is to be carried out, and who will undertake such management;
2. Site development shall be fitted to the topography and soil so as to create the least potential for vegetation loss and site disturbance;
3. Vegetation and soil removal shall be limited to the minimum amount necessary for the development of the site.
4. If proposed development, including grading, dredging and filling, would affect the banks of a stream, river or other watercourse, bank stabilization using bioengineering or other techniques acceptable to the Planning Commission shall be required to prevent erosion.
5. Vegetation indigenous to the site or plant community shall be restored in areas affected by construction activities. Temporary vegetation, sufficient to stabilize the soil, may be required on all disturbed areas as needed to prevent soil erosion. New planting shall be given sufficient water, fertilizer and protection to insure reestablishment.

O. Compensatory Mitigation. The Planning Commission may require that the permit applicant submit a compensatory mitigation plan developed by qualified professionals to achieve no net loss of wetland, riparian area, and watercourse functions, values, and acreage if the Planning Commission believes such a plan is

needed to meet the goals and standards of this ordinance including conditions attached to the issuance of a permit. Compensatory mitigation may take the form of wetlands, riparian areas, and watercourses and/or buffer area restorations, creation, or enhancement. Such plans shall include design, implementation, maintenance, and monitoring elements. A mitigation plan shall:

1. Describe any residual impacts to functions, values, or acreage;
2. Identify riparian, wetland, and watercourse areas that are to be protected and those that will be impacted;
3. Provide a plan for compensating for impacts;
4. Describe proposed habitat manipulation activities in detail;
5. Provide replacement of affected vegetation with appropriate plant species in ratios which will result in simulation of pre-alteration vegetation within five years;
6. Specify construction methods;
7. Provide for periodic monitoring of mitigation; and
8. Provide for the posting of performance bonds or other financial assurances.
9. In general, compensatory mitigation shall be onsite and in kind. However, the Planning Commission may allow use of offsite and out of kind mitigation including the use of mitigation banks if such use will have net ecological benefits, will not cause nuisances, will not violate other laws, and will not result in fragmentation of the wetland, riparian area, and watercourse ecological system. Use of mitigation banks will be allowed to compensate for impacts only where onsite measures are, in addition, applied to ensure that flooding, water pollution, erosion, and other problems do not occur at the original site.
10. Where feasible, mitigation projects shall be completed prior to activities that will disturb wetlands, riparian areas, and watercourses. In other cases, mitigation shall be completed immediately following disturbance and prior to use or occupancy of the activity.
11. There shall be no introduction of any plant or wildlife into a mitigation project for any wetland or wetland buffer which is not native to the area unless authorized by a state or federal permit or approval.
12. In general the following ratios shall be provided for restoration, creation, and enhancement: 2:1 for restoration, 4:1 for creation, and 6:1 for enhancement. The Planning Commission may increase the ratios if uncertainties exist with regard to the success of the proposed mitigation, a significant period of time will elapse between impact and replication of wetland, riparian area, and watercourse functions, the mitigation will result in reduced functions relative to the wetlands, riparian areas, and watercourses being impacted, or the impact was an unauthorized impact. The Planning Commission may decrease ratios if the proposed mitigation has a high likelihood of success, the proposed mitigation will provide functions and values significantly greater than the wetlands, riparian

areas, and watercourses being impacted, or the proposed mitigation is conducted in advance of the impact and has been shown to be successful. In evaluating the adequacy of proposed compensatory mitigation, the Planning Commission shall consider:

- a. The risk of failure of the proposed mitigation project based upon the difficulty with which this type of wetland, riparian area, and watercourse is restored, created, or enhanced, the experience and expertise of the individual or individuals proposing to carry out the mitigation, the proposed buffer and other protection measures, and the proposed management, monitoring and maintenance,
- b. The societal importance of the wetland, riparian area, and watercourse or buffer functions provided by the mitigation plan in contrast with the societal importance of the functions of the original area or buffer,
- c. Whether the proposed mitigation will require long term maintenance and, if so, the adequacy of any proposed maintenance,
- d. The need for long term monitoring and whether such monitoring will be provided, and
- e. Whether there will be offsite impacts of the proposed mitigation such as flooding or adjacent property.

P. **Variations.** The Planning Commission may issue variances to the wetland, riparian area, and watercourse, including buffer requirements of this ordinance where the regulations will otherwise deny landowners all economic use of properties, taking into account existing uses, reasonably anticipated future uses, market values and sales for comparable properties, taxes, special assessments, and other factors. The Planning Commission may issue a variance only for the minimum deviations from permit standards, conditions, or mitigation measures which will be consistent with not denying landowners all economic use of their properties. The Planning Commission shall not authorize variances for activities which will increase flood and erosion losses on other properties, pose threats to public health and welfare such as flash flooding, pollute potable water supplies, or otherwise cause nuisances. The Planning Commission shall also not issue a variance for activities which will violate other laws. Detailed variance procedures are found in 13-1-18 of this Title.

Q. **Prior Nonconforming Uses.** All uses and activities that were lawful before the passage of this code, but which do not conform with the provisions of the code, may be continued but may not be expanded, changed, enlarged or altered without a permit as provided above. Nonconforming uses including but not limited to buildings shall not be enlarged or expanded to further encroach into the wetlands, riparian areas, and watercourses. Nonconforming activity which has been discontinued for more than two years shall not be resumed. No nonconforming structure which has been destroyed or damaged for more than

50% of its value by flooding, wind, fire, or other natural or man-made force may be rebuilt only with issuance of a permit in conformity with the provisions of this ordinance.

- R. **Bonds and Insurance.** Upon approval of the application and prior to issuance of a permit, the Planning Commission may require the permit applicant to file a bond with such surety in such amount and in a form approved by the Planning Commission and in conformance with Chapter 7 of this Title. Release of the bond or surety shall be conditioned on compliance with all provisions of these regulations and the terms, conditions and limitations established in the permit. The Planning Commission may require the applicant to certify that it has public liability insurance against liability which might result from the proposed activity covering any and all damage which might occur within one (1) year of completion of such operations, in an amount commensurate with the regulated activity.
- S. **Enforcement and Penalties.** Any person who commits, takes part in, or assists in any violation of any provision of this code is guilty of a class C misdemeanor, punishable by a fine not to exceed seven hundred fifty dollars (\$750.00) per day, or a jail term of up to ninety (90) days, or by both such fine and jail term. Each violation of this ordinance shall be a separate offense, and in the case of a continuing violation, each day's continuance thereof shall be deemed to be a separate and distinct offense.

Oakley City shall have jurisdiction to enjoin a violation of this ordinance. All costs, fees, and expenses in connection with such action shall be assessed as damages against the violator. The City Planning Director and other governmental officials learning of a violation shall refer the violation to the City Attorney.

In the event of a violation the City shall have the power to order restoration of the wetland, riparian area, and watercourse areas. If the responsible person or agent does not complete such restoration within a reasonable time following the order, the authorized local government shall have the authority to restore the affected area to the prior condition and the person or agent responsible for the violation shall be held liable to the City for the cost of restoration.

- T. **Inspections, Display of Permit, Revocations of Permits.** Every permit issued pursuant to this code shall allow the Planning Commission or its designated employee the right to inspect a project to determine compliance with conditions and the provisions of this code. A permit applicant shall notify the Planning Commission at least five days before project construction is to be begin. The permit shall be prominently displayed at the project site during the undertaking of the activities authorized by the permit. All permits shall be valid for a period of one year from the date of issuance unless the Planning Commission indicates otherwise. The Planning Commission may issue a Stop Work Order if it finds that the permittee is violating provisions of the permit or of other applicable laws,

ordinances, and/or regulations. The Planning Commission may, on written notice to the permittee, suspend or revoke a permit issued pursuant to this ordinance if the permittee has not complied with any term or condition of the permit or has failed to undertake the project in the manner set forth in the application.

- U. **Appeals.** Appeal on actions of the Planning Commission shall be made in accordance with provisions of 13-1-15 through 13-1-17 of this Title.

- V. **Application Fees.** At the time of a permit application, the applicant shall apply a filing fee as per the current and applicable City Rate Ordinance. The Planning Commission may also require an applicant to pay a fee for reasonable costs and expenses born by the Planning Commission including but not limited to verifying wetland, riparian, and watercourse boundaries, analyzing resource functions and values including wildlife evaluations, and hydrogeologic and drainage analyses.

APPENDIX A DEFINITIONS

For the purpose of these regulations, certain numbers, abbreviations, terms and words used herein shall be used, interpreted and defined as set forth in this appendix. Where definitions are given in another chapter or section of this Title that apply to only that section or chapter, those definitions shall apply first.

Capitalized terms in this Code have the meanings as stated in this section. If the term starts a sentence and is intended to have the meaning ascribed to it in these definitions, then term must be followed by its initial letter in parentheses in caps to denote the meaning, e.g., "Structures (S) are not allowed in wetlands". When terms are not capitalized then they have the meaning that is conferred by common usage and the context in which they are used. "Shall" is always mandatory.

Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the plural number include singular; the word "herein" means "in these regulations"; the word "regulation" means "these regulations"; the word "Code" means "the Oakley City Land Management and Development Code" or "this Title" unless the context indicates it is referring specifically to a different regulation, code, statute, ordinance or law.

ACCESS: The provision of vehicular and/or pedestrian ingress and egress to structures, facilities, land or parcel.

ACCESSORY BUILDING: A building upon the same lot (or in a contiguous lot under the same ownership) as the principal building and is: a) clearly incidental to, and customarily found in connection with, such principal building or use; and b) is operated and maintained for the benefit or convenience of the owners, occupants, employees, customers or visitors of the lot with the principal use.

ADMINISTRATIVE PERMIT: A permit issued by the planning staff, City Planner or building official for specified uses after compliance with applicable zoning or Land Management and Development Code regulations is determined.

ADULT/SEXUALLY ORIENTED BUSINESS: Defined according to section _____ of the City Code.

AFFECTED ENTITY: A City, municipality, local district, special service district, school district, interlocal cooperation entity, property owners association, public utility, or the Utah Department of Transportation, as set forth in Utah Code Annotated section 10-9a-103(1) or successor law.

AGRICULTURAL ACTIVITY: The tilling of the soil, raising of crops (including timber), forage, grazing and raising of animals/fish for agricultural purposes.

AGRICULTURAL BUILDING: A building or structure on agricultural land designed, constructed, and used to house farm implements, livestock, or agricultural produce or products used by the person(s) engaged in agriculture. [Agricultural buildings do not include dwelling units or riding arenas.]

AGRICULTURAL EXEMPTION: An exemption from the building permit requirements of this Title for structures used for agricultural activities.

ANTENNA: Any system of wires, poles, rods, arms, reflecting discs or similar devices of various sizes, materials and shapes, including, but not limited to, solid or wire mesh dish, cone, spherical or bar configurations used for wireless transmission. Types of antennas include, but are not limited to, the following:

Roof Mounted Antenna: An antenna mounted directly to the roof of a building, mechanical penthouse or parapet enclosure wall which is on the rooftop of a building.

Top Hat Antenna: Spatial array of antennas, generally located on a freestanding structure, where the visible width of antennas and antenna mounting structures are more than two feet (2') in width as viewed looking directly at the structure.

Wall Mounted Antenna: Any antenna mounted directly to the fascia or outside walls of a structure, existing parapet walls, penthouses, or mechanical equipment rooms, with no portion of the antenna extending above the roofline of such structures.

ANTENNA SUPPORT STRUCTURE: A structure, the principal purpose of which is for location of antennas. Types of antenna support structures may include:

Lattice Tower: A multiple sided, open steel frame structure used to support one (1) or more antennas.

Monopole: A standing antenna support structure placed directly on the ground to support one (1) or more antennas.

APPEALS PROCEDURES: The procedures set forth in section 13-1-16 of this Title which are to be followed for administrative appeals of any and all decisions made pursuant to this Title.

APPLICANT: The owner of land and/or his/her representative seeking formal City action.

APPLICATION: A form or checklist supplied by the Planning Department, indicating the data and information necessary to process the applicant's proposed project.

ARTERIAL: Any road intended to provide direct year-round connection to other jurisdictions, or which links such roads, and is intended or used primarily for free-flowing traffic movement. Traffic velocity is generally greatest on arterial roads, due primarily to road design.

ATTACHED BUILDING: Units connected on one (1) or more sides to an adjacent unit or units by a common party wall with separate exterior entrance for all units.

AUTO IMPOUNDMENT YARD AND ASSOCIATED TOWING SERVICES: An outdoor storage facility for impound of automobiles brought there by a towing service.

AUTO WRECKING YARD: The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled or wrecked vehicles or their parts.

AUTOMOTIVE REPAIR, SERVICE AND DETAILING: An establishment primarily engaged in the repair of automobiles, trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include muffler shops, auto repair garages, tire sales and installation, wheel and brake shops, body and fender shops, and similar repair and service activities, but excluding dismantling or salvage.

AUTOMOTIVE SALES: An establishment primarily engaged in the sale or rental of automobiles, trucks, motorcycles, motor homes, recreational vehicles, or boats, including incidental storage, maintenance, and servicing. Typical uses include new and used car dealerships, motorcycle dealerships, and boat, trailer, or recreational vehicle dealerships.

BANKS AND FINANCIAL SERVICES: An establishment primarily engaged in the provision of financial and banking services. Typical uses include banks, savings and loan institutions, stock and bond broker's loan and lending activities.

BARS, TAVERNS, NIGHTCLUBS: An establishment serving alcoholic beverages for consumption on the premises.

BED AND BREAKFAST INNS: An owner-occupied dwelling, including those dwellings of historical significance, in which two (2) to eight (8) rooms are rented out by the day, offering overnight lodging to travelers, and where one (1) or more meals are provided to the guests only, the price of which may be included in the room rate (see definition of hotel, motel, or inn).

BUILDING: Any structure built for the support, shelter or enclosure of persons, animals, or movable property.

BUILDING, ACCESSORY: A building upon the same lot (or on a contiguous lot under the same ownership) as the principal building and which is: a) clearly incidental to, and customarily found in connection with, such principal building or use; and b) is operated and maintained for the benefit or convenience of the owners, occupants, employees, customers or visitors of the lot with the principal use; and c) is associated with a principal commercial or industrial use which is permitted within the zone.

BUILDING CODE: The International Building Code (IBC) as adopted by the State.

BUILDING ENVELOPE: That area within which a structure must be located. A building envelope is designated by building setback lines or can be shown specifically on a subdivision plat.

BUILDING OFFICIAL: As defined in the IBC.

BUILDING PERMIT: An official document or certification that is issued by the building official and which authorizes the construction, enlargement, alteration, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving, or repair of a building or structure.

BUSINESS: Any lawful enterprise, profession, occupation or activity engaged in by a person with the objective of profit, gain, benefit or advantage, direct or indirect, which is conducted within Oakley City.

BUTCHER, RETAIL: A commercial establishment for the processing of animals, including the sale of meat and related products.

BUTCHER WITH SLAUGHTERING, RETAIL: A commercial establishment for small-scale slaughtering and processing of animals, including the sale of meat and related products.

CAMPGROUND: Any area that is occupied or intended or designed or improved for occupancy by transients using recreational vehicles, motor homes, tents, mobile trailers, and other temporary housing for dwelling, lodging, or sleeping purposes on a temporary recreational basis. Does not include manufactured housing communities or similar long-term housing developments or trailer parks.

CARWASH: The use of a site for washing and cleaning of vehicles in a commercial operation open to the public. Does not include facilities that are accessory uses to the principal permitted use.

CELL ON WHEELS (COW): A mobile temporary telecommunications facility which is located on a trailer. COWs are subject to temporary use permits (see use chart).

CEMETERY: Land used or dedicated to the burial or interment of the dead, including crematoriums and mausoleums.

CERTIFICATE: A document which conforms to the requirements of Utah Code Annotated section 10-9a-605(1) or successor law.

CERTIFICATE OF CONSENT: The owner's dedication on a final subdivision plat or Final Site Plan; or the lienholder's consent on a final subdivision plat.

CHILD CARE, COMMERCIAL: Providing child care services within a commercial establishment that is licensed by the State wherein are received children under seventeen (17) years of age.

CHILD CARE, FAMILY (FEWER THAN 9 CHILDREN): A child care facility operated by a party who resides at the premises used for child care services, which provides service for fewer than nine (9) children.

CHILD CARE, FAMILY (WITH 9-16 CHILDREN): Providing child care services within a dwelling that is licensed by the State wherein are received nine (9) or more children under seventeen (17) years of age who are not related to such person and whose parents or guardians are not residents in the same house with such person responsible for the control and care of children enrolled therein.

CHILD CARE, IN-HOME (4 CHILDREN OR LESS): Providing child care services within a dwelling home for four (4) or less children.

CHURCHES/HOUSES OF WORSHIP: A building used for non-profit purposes by a recognized and legally established sect, primarily for the purpose of worship.

CITY: Oakley City, Utah.

CITY ATTORNEY: Attorney of Oakley City or his/her designee.

CITY COUNCIL: The Legislative Body of Oakley City, Utah.

CITY ENGINEER: The Engineer for Oakley City, who is appointed by the City Council.

CITY MAYOR: The Chief Executive Officer of Oakley City, Utah.

CITY PUBLIC WORKS DEPARTMENT: The Oakley City Public Works Department under the direction of the City Mayor.

CODE: This Title 13, or any other Title of the Oakley City Code.

COLLECTOR ROAD: A road intended to move traffic from local roads to arterial roads. Collector roads typically collect traffic from a neighborhood or large subdivision and provide a connection to the arterial road system.

COLOCATION: A telecommunications facility includes a single antenna support structure, but more than one (1) telecommunications provider's antennas and telecommunication equipment.

COMMERCIAL USE: The act of selling goods or services, including leasing and other transactions under a business license as required by the City, including non-profit enterprises and 501 C3 operations.

CITY PLANNER: The Director of the Planning Department, with overall administrative control of the planning, building and zoning functions of the City, under the direction of the City Mayor.

CONDITIONAL USE: Land uses that because of their unique characteristics or potential for detrimental impacts on the City, surrounding neighbors, or adjacent land uses, may require mitigation in order to be permitted under this Code. Conditional uses are allowed in a zone only if the reasonably anticipated detrimental effects of the use can be substantially mitigated through the imposition of reasonable conditions.

CONDITIONAL USE PERMIT: A development permit which approves a conditional use.

CONDITIONAL USE PERMIT, MAJOR AMENDMENT: An amendment to a conditional use permit as set forth in subsection 13-5-7G2 of this Title.

CONDITIONAL USE PERMIT, MINOR AMENDMENT: An amendment to a conditional use permit as set forth in subsection 13-5-7G1 of this Title.

CONDOMINIUM: The ownership of a single unit in a multiunit project together with an undivided interest in common in the common areas and facilities of the property.

CONDOMINIUM PLAT: A plat of land and units prepared in accordance with Utah Code Annotated section 57-8-13 or successor law.

CONSTRUCTION PLAN: The maps or drawings accompanying a final subdivision plat and showing the specific location and design of improvements to be installed in the subdivision in accordance with the requirements of the Planning Commission or City Engineer as a condition of the approval of the plat.

CONTRACTOR'S OFFICE: A room or group of rooms used for conducting business affairs that does not use any exterior storage area.

CONTRACTOR'S YARD: Any land or buildings used primarily for the storage of equipment, vehicles, machinery (new or used), building materials, paints, pipe, or electrical components used by the owner or occupant of the premises in the conduct of any building trades or building craft.

CORNER LOT: A lot located at the intersection of two (2) roads/streets.

COUNTY ASSESSOR: In accordance with Utah Code Annotated Title 17, chapter 17, the duly elected Assessor of Summit County or his/her designee.

COUNTY HEALTH DEPARTMENT: The Summit County Health Department created pursuant to Utah Code Annotated Title 26A.

COUNTY RECORDER: In accordance with Utah Code Annotated Title 17, chapter 21, the duly elected Recorder of Summit County or his/her designee.

COUNTY WILDLAND FIRE MARSHAL: The Fire Marshal appointed by the Summit County Wildland Fire Service Area.

COVENANTS, CONDITIONS AND RESTRICTIONS (CC&Rs): Private regulations imposed upon owners of lots within a subdivision or condominium plat. The City does not enforce CC&Rs.

CRITICAL AREA: Fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, streams and wetlands.

CUL-DE-SAC: A local street with only one (1) outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement as well as firefighting and other public safety equipment.

DENSITY: The sum of all dwelling units or floor area permitted on any parcel. Often expressed in units per acre.

DENSITY, BASE: The maximum number of dwelling units or floor area permitted per acre(s) of land by a zone district.

DENSITY, BONUS: Incentive density awarded to a parcel or final subdivision plat in excess of base density as set forth in appendix B of this Title.

DENSITY, COMMERCIAL, INDUSTRIAL, INSTITUTIONAL: The floor area of a structure within a lot or parcel calculated as a ratio of floor area to the lot or parcel area.

DEVELOPABLE AREA: The land area remaining after the removal of all deed restricted open space, which is available for development.

DEVELOPER: The person, persons, corporation, firm or partnership proposing to engage, or who is engaged, in development.

DEVELOPMENT AGREEMENT: A quasi-legislative agreement between a developer or property owners and the City pursuant to the provisions of this Title adopted in connection with a legislative act.

DEVELOPMENT EVALUATION STANDARDS: Those land use regulations set forth in chapter 3 of this Title.

DEVELOPMENT OR DEVELOPMENT ACTIVITY: Any of the following activities:

- A. Change in use.
- B. Construction, clearing, filling, excavating, grading, paving, dredging, mining, drilling or otherwise significantly disturbing the soil of a site.
- C. Building, installing, enlarging, replacing or substantially restoring a structure, impervious surface or central water system, and including the long-term storage of materials.
- D. Erection of a sign.
- E. Any activity increasing the need for parking or generating additional traffic.
- F. Construction, elimination or alteration of a driveway onto a public road.
- G. Demolition of existing structures.

Development or development activity does not include agricultural activities.

DEVELOPMENT PERMIT: A land use permit issued by the City which allows development.

DISTILLERY: A place where liquor is manufactured.

DIVISIONS OF LAND FOR NON-DEVELOPMENT PURPOSES: The processes set forth in subsection 13-5-5G of this Title.

DRIVEWAY: A means of access to one (1) but not more than five (5) one-family dwelling units. Without assurances that only five (5) dwellings will use a driveway, it shall otherwise be designated as a local road.

DWELLING UNIT: A building or portion thereof containing living facilities, including provisions for sleeping, eating, cooking and sanitation, and is intended for occupancy by a family and its guests, independent of other families.

DWELLING UNIT, ACCESSORY: An area used by the owner of the primary residence or primary tenant/business as a dwelling unit for the private use of the property owner's relatives, domestic help, caretakers, nursing staff, or similar users. An accessory dwelling unit shall contain cooking, sanitation and sleeping facilities.

DWELLING UNIT, AGRICULTURAL EMPLOYEE: A one-family dwelling unit located on a lot or parcel used for an agricultural activity. The dwelling unit must be an accessory use to the principal dwelling unit and agricultural activity on the property. An agricultural employee dwelling unit shall contain cooking, sanitation and sleeping facilities.

DWELLING UNIT, MULTI-FAMILY: A dwelling unit in a structure containing three (3) or more dwelling units sharing common vertical walls or floors/ceilings, but not including hotels, lodges and other similar uses.

DWELLING UNIT, ONE-FAMILY: A detached principal building, other than a mobile home, designed for and used as a dwelling unit exclusively by one (1) family and its guests. May be referred to as a single-family dwelling unit.

DWELLING UNIT, SINGLE-FAMILY ATTACHED: A dwelling unit in a structure containing two (2) or more dwelling units sharing one (1) or more vertical and no horizontal common walls, each of which is designed for and used as a dwelling unit exclusively by one (1) family and its guests. May also be referred to as a townhouse.

EASEMENT: A quantity of land set aside over which a liberty, privilege, burden or advantage in land without profit exists distinct from the ownership of land, which is granted to the public, another party, or some particular person or part of the public.

EQUIPMENT RENTAL, HEAVY: The temporary leasing of a movable or transportable vehicle or other apparatus commonly used in commercial, industrial, or construction enterprises, such as but not limited to trucks, trailers, bulldozers, cranes, backhoes, rollers, loaders or lifts having a gross weight of 2.5 tons or more.

EQUIPMENT RENTAL, LIGHT: The temporary leasing of tools, lawn and garden equipment, recreation equipment, party supplies and similar goods and equipment, including storage and incidental maintenance. This term does not include a motor vehicle rental facility.

EROSION: The process of eroding or being eroded by wind, water, or other natural agents.

ESCROW: A deposit of cash with the City or approved alternate entity in lieu of an amount required and still in force on a performance or maintenance guarantee.

EVENT CENTER: An establishment which is rented by individuals or groups to accommodate private functions including, but not limited to banquets, weddings, anniversaries and other similar celebrations. Such a use may or may not include: a) kitchen facilities for the preparation or catering of food; b) the sale of alcoholic beverages for on premises consumption, only during scheduled events and not open to the public; and c) outdoor gardens or reception facilities.

FAMILY: An individual, or two (2) or more persons related by blood, marriage or adoption, or a group of not more than four (4) persons who are not related, occupying the same dwelling unit on a continuous basis.

FENCE: A structure constructed for reasons of privacy, security or aesthetics which is located in such a manner as to separate or divide areas. Includes hedges and masonry walls.

FINAL ACTION: Final decision by the City Mayor, City Council, Planning Commission, Appeal Authority or City Planner approving, approving with conditions, or denying a plan, project,

rezone, use, activity or other action at the conclusion of the appropriate review process set forth in chapter 5 of this Title.

FINAL SITE PLAN: A map establishing detailed development layout, and other development details as set forth in section 13-5-6 of this Title.

FIRE CODE: The International Fire Code adopted by the State.

FLOODPLAIN: An area adjoining a river, stream or watercourse, or other body of standing water, in which a potential flood hazard exists due to inundation or overflow of water having sufficient volume and velocity to transport or deposit debris, scour the surface soil, dislodge or damage buildings, or erode the banks of watercourses designated as a floodplain by the Federal Emergency Management Agency.

FLOOR AREA: The total of all square footage of floor space within all floors of a building as measured from the inside of the exterior walls. Does not include attics, crawl spaces, attached garages, loading areas, breezeways, enclosed or unenclosed porches, elevator or stair bulk heads, and decks within a structure.

FLOOR AREA RATIO: The percentage of the floor area divided by the sum of the square feet of the lot or parcel on which it sits.

FOOD PROCESSING, COMMERCIAL: An establishment that transforms raw ingredients into food or transforms food into other forms for consumption. Does not include butcher with slaughtering.

FORESTRY: The use of land for the raising and harvesting of timber, pulp woods, and other forestry products for commercial purposes. Does not include the temporary or long-term operation of a sawmill.

FUNERAL SERVICES: An establishment engaged in undertaking services such as preparing the human dead for burial and arranging and managing funerals. Typical uses include funeral home, crematoriums, or mortuaries.

GAS AND FUEL, STORAGE AND SALES: Bulk storage tanks of flammable and combustible liquids, compressed gases or liquefied petroleum gas (LP gas) for business use, retail sale, wholesale, or wholesale distributing.

GASOLINE SERVICE STATION WITH OR WITHOUT CONVENIENCE STORE: A place where gasoline, motor oil, lubricants, or other minor accessories are retailed directly to the public on the premises, often in combination with the retailing of items typically found in a convenience market or supermarket.

GENERAL PLAN: The General Plan for the Oakley City, prepared by the Planning Commission and adopted by the City Council, pursuant to State law.

GEOLOGIC HAZARD: The hazard presented by surficial or deep geological instabilities including, a surface fault rupture, shallow groundwater, a debris flow, unstable soil, landslides, rapid erosion, rock fall, liquefaction, earthquakes, and any other geologic condition that presents a risk: a) to life, b) of substantial loss of real property, or c) of substantial damage to real property.

GEOLOGICAL HAZARD AREA: A site where risk of harm from one (1) or more geological hazards is present.

GOVERNMENT LOTS: A subpart of a section which is not described as an aliquot part of the section by a cadastral survey, but which is designated by number, for example, Lot 3. A government lot may be regular or irregular in shape, and its acreage may vary from that of regular aliquot parts. An aliquot part is the standard subdivisions of a section, such as a half section, quarter section, or quarter-quarter section, as established through a cadastral survey.

GRADE, FINISHED: The finished or resulting grade where the surface of the ground meets the building after the completion of development.

GRADE, NATURAL: The existing profile of the surface of the land prior to any ground disturbance resulting in a change to the topography. When existing grade does not exist due to excavation, landslide or other disturbances regardless of cause, natural grade will be established by the City Planner based on best available information. Such designation is subject to appeal to the Planning Commission.

GUEST RANCH OR LODGE: A commercial use consisting of recreational activities that may include, but are not limited to, horseback riding, fishing, hunting, skiing and snowmobiling. The guest ranch may include overnight lodging, food service, meeting and conference facilities as well as other uses.

HEALTH CARE FACILITIES: A facility or clinic, whether public or private, principally engaged in providing services for health maintenance, diagnosis, and treatment. Services are provided on an outpatient basis only, and of a smaller scale than a hospital.

HEIGHT: For the purpose of measuring the height of any building from natural grade, the measurement shall be the vertical distance from natural grade to the highest point of a flat or pitched roof or other portion of a structure. This measurement shall occur at any point within the exterior walls of the building or structure. Vertical architectural features on houses of worship, such as steeples which are associated with the religious function of the building, may be constructed two and one-half (2 1/2) times the height of the building.

HILLSIDE DEVELOPMENT: Development which is defined by subsection 13-3-4C of this Title.

HOME OCCUPATIONS: Those occupations or professions which may be conducted within a dwelling unit or on the premises thereof and is clearly incidental and secondary to the use of the dwelling unit for residential purposes.

HORSE BOARDING, COMMERCIAL: An establishment providing for the housing, breeding, raising, or care of horses owned by person(s) other than the property owner or occupant, for a fee.

HOSPITAL: An establishment providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions and including, as an integral part of the institution, related facilities, such as laboratories, emergency treatment facilities, diagnostic services, out-patient facilities, training facilities, medical offices, or staff residences.

HOTEL, MOTEL OR INN: An establishment containing sleeping rooms for the temporary occupancy of guests. Accessory facilities may include a lobby, meeting rooms, recreation facilities, group dining facilities and/or other facilities or activities customarily associated with hotels, but not including lock-outs or boarding houses. Motels are generally an establishment containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage or parking space located on the lot and designed, used, or intended wholly or in part for the accommodation of automobile transients. Motel includes motor courts, motor lodges and tourist courts, but not mobile home parks or travel trailer parks.

HOUSING, MODERATE INCOME: Housing that is affordable, either for rent or for sale, to households that earn no more than eighty percent (80%) of the area median wage.

INDOOR ENTERTAINMENT: An establishment providing entertainment or recreational activities within an enclosed building, such as motion picture theaters, live theaters, roller skating, bowling, ice skating and similar uses.

INDUSTRIAL USES: Operations which include the storage, manufacturing and processing of agricultural or timber products, minerals extraction and production, treatment, packaging, wholesaling, fabrication, assembly and warehousing.

INSTITUTIONAL USES: A use operated by a private or public non-profit educational, recreational, charitable or public service organization, such as having the purpose primarily of serving the general public, but not including houses of worship.

KENNEL, COMMERCIAL: Any premises, except where accessory to an agricultural activity, where five (5) or more domestic animals, over four (4) months of age are boarded, trained, groomed, bred, and/or offered for sale for commercial use.

LAKE: A large body of still water formed naturally that is surrounded by land.

LAND SURVEYOR: A surveyor who is registered and licensed within the State of Utah.

LAND USE AUTHORITY: The City Planner, Planning Commission, Appeal Authority, City Mayor or City Council, as the case may be, who is empowered under this Title to make land use decisions on behalf of Oakley City.

LOGGING CAMP: An establishment engaged in cutting down trees for commercial purposes, including transportation to a sawmill. A logging camp does not include cutting or alteration of trees incidental to construction activities.

LOT: A parcel that is described within a recorded final subdivision plat. A lot is a conforming parcel.

LOT COVERAGE: The combined area of the footprint of all structures, exterior impervious surface associated with the use of the property (including storage areas, parking lots, driveways and similar areas) in a commercial or industrial use. Coverage does not include building eave overhangs or pervious decks or similar coverings that do not directly impose an impervious covering on the ground.

LOT LINE, FRONT: The property line dividing a lot or parcel from a road, whether public or private, or located adjacent to the principal means of access.

LOT LINE, REAR: The property line opposite the front lot or parcel line.

LOT LINE, SIDE: Any lot line other than a front or rear lot or parcel line.

LOT OF RECORD: See definition of parcel, grandfathered.

LOT WIDTH: The minimum distance between the side property lines.

LOW IMPACT PERMIT: A development permit which approves a low impact use.

MAINTENANCE AND CONSTRUCTION SERVICES: An establishment providing services relating to the maintenance or repair of commercial and dwelling structures, such as plumbing/heating/air conditioning, painting, electrical services, masonry, landscaping, carpentry, roofing/sheet metal, concrete services, and well drilling.

MANUFACTURING, CUSTOM: A use that may be home-based that is engaged in the on-site production of goods and the incidental direct sale to customers of only those goods produced on-site. Typical uses include cabinet shops, ceramic studios, candle-making shops, custom jewelry manufacturing, bakeries, decorative art or uses of a similar scale.

MANUFACTURING, HEAVY: The converting of raw or partially processed materials into a product used for further processing or distribution. Examples of heavy manufacturing include lumber and paper mills, stone, clay, glass product manufacturing, asphalt and concrete batch plants, and similar operations. These uses may be conducted partially or wholly outdoors and usually create noxious byproducts such as dust, fumes, hazardous waste products, noise, vibration, and glare.

MANUFACTURING, LIGHT: An establishment engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

MASTER PLANNED DEVELOPMENT (MPD): A development process set forth in section 13-5-10 of this Title whereby comprehensive project design is accomplished through development strategies, efficiencies in land resources, and flexibility and innovation in design.

MPD, Major Amendment: An amendment to an MPD as set forth in subsection 13-5-10D5b of this Title.

MPD, Minor Amendment: An amendment to an MPD as set forth in subsection 13-5-10D5a of this Title.

MICROBREWERY: A facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail or wholesale, on or off premises, with a capacity of not more than fifteen thousand (15,000) barrels per year. The development may include other uses such as a standard restaurant, bar or live entertainment as otherwise permitted in the zoning district.

MINING OR RESOURCE EXTRACTION: The extraction of a mineral or resource from its natural occurrence on or under the ground.

MOBILE HOME: Any vehicle or object intended for occupancy by an individual or family that was originally constructed in total so as to be portable or mobile, whether presently affixed to the ground or not, and which is intended to be connected to on site utilities.

MOBILE HOME PARK: A parcel or lot under one ownership that has been planned, improved, and approved for the placement of two (2) or more mobile homes intended for occupancy.

MUNICIPAL LANDFILL: A government facility intended for the disposal, dumping, and/or burial of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or vehicle parts, and other non-toxic waste material. A municipal landfill may also include recycling facilities.

NON-COMPLYING USE: The use of a building, structure or activity which does not conform to current use regulations for the zone in which it is situated, and which did not conform to all regulations at time of its establishment.

NON-CONFORMING STRUCTURES: A building or structure that does not conform to the existing zone (including size, setbacks, height, and architecture). Non-conforming structures can only be expanded if the expansion does not increase the building or structure's non-conformity.

NON-CONFORMING USE: The present use of a structure or land which does not conform to current regulations stated in this Title, but which conformed to all regulations at time of its establishment or which was in existence prior to the adoption of the current zoning regulations.

NURSERY/GREENHOUSE: An enterprise that conducts the retail or wholesale of plants grown on or off the premises, as well as related accessory equipment.

OFF-STREET PARKING: A location for the parking of vehicles off of private or public roads.

OFFICES: A room or suite of rooms used for conducting the affairs of a business, profession, service industry, or government.

OPEN SPACE: Land that is left undeveloped. Open space does not include open areas in private individual residential lots, public roads, private roads, parking spaces and drive aisles in parking lots, land covered by structures not designated for active civic recreational use, and outdoor storage areas.

OPEN SPACE, COMMON: Facilities, land and yard areas identified within a subdivision for the use and enjoyment of all the residents and maintained and operated by an organization of property owners.

OPEN SPACE, DEED RESTRICTED: Land which is deed restricted for public or private agricultural, scenic, or recreational purposes. This has reference to the bonus density set forth in subsection 13-5-10E2 of this Title.

ORDINANCE: Any legislative action, however denominated, of the City which has the force of law, including any amendment or repeal of any ordinance.

ORDINARY HIGH-WATER MARK: The mark along water bodies that is evident by examining the bed and banks where the presence and action of waters and riparian vegetation boundaries are common in ordinary years, as to mark upon the soil a distinct character from that of the abutting upland. Where the ordinary high-water mark cannot be found, the top of the channel bank shall be substituted.

OVERLAY ZONE: A zone which encompasses one or more underlying zones and imposes additional requirements or special regulations and allows special flexibility in planning the use, site layout and infrastructure design above that required by the underlying zone. These special requirements shall take precedence over the provisions of the underlying zone.

OWNER: Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be developed or subdivided under this Title.

PARCEL: A tract of land.

PARCEL BOUNDARY ADJUSTMENT: An adjustment to property boundaries as set forth in Utah Code Annotated section 10-9a-522, 10-9a-523, or 57-1-45.

PARCEL, CONFORMING: A parcel which meets the requirements of subsection 13-5-2A of this Title.

PARCEL, GRANDFATHERED: A parcel created prior to May 6, 1996. A grandfathered parcel is entitled to one dwelling unit of density.

PARCEL, NON-CONFORMING: A parcel not meeting the definition of a conforming parcel as set forth in subsection 13-5-2B of this Title.

PARCEL, REMAINDER: A parcel of land that is the remnant of a subdivision process and conforms to subsection 13-5-5B4 or C4 of this Title.

PARCEL, REMNANT: A parcel of land that does not conform to the minimum size requirements of the applicable zone and shall be included within the boundaries of a final subdivision plat in accordance with subsection 13-5-5B4 or C4 of this Title.

PARK: An area reserved for recreational, educational, or scenic purposes and may include small-scale recreational facilities such as playground equipment.

PERSON: A corporation, a partnership, a limited company, a limited liability company, and an incorporated association of persons such as a club.

PETROLEUM REFINERY: A facility involved in producing petroleum distillates from crude oil.

PLANNING COMMISSION: The Oakley City Planning Commission of Oakley City, Utah, as established in this Title.

PLAT: A map of lands being laid out and prepared in accordance with State and City requirements that, once approved, is recorded. See definitions of subdivision or subdivision plat, final.

PLAT NOTE: A statement on a recorded plat used to identify restrictions, setbacks, disclaimers, and other appropriate information.

POND, ARTIFICIAL: A small body of still water created by excavating and/or diking dry land and used exclusively for such purposes as stock watering, irrigation, settling basins, recreation purposes, aesthetic ornamentation or as a landscape/architectural feature.

POND, NATURAL: A small body of still water that is surrounded by land. Natural ponds may arise naturally in floodplains, wetlands, as part of a river system, or may be created specifically for habitat restoration.

PREFABRICATED HOME: A home constructed with steel frame may be considered a mobile home for the purpose of this Title.

PROFESSIONAL OFFICES: A building or space used by persons such as accountants, architects, engineers, artists, dentists, designers, lawyers, physicians, realtors, and others by virtue of their training and/or license, are qualified to perform services of a professional nature.

PUBLIC FACILITY: A use, facility, or building owned or managed by the City, or a quasi-public entity, that provides a function, activity, or service for public benefit.

PUBLIC HEALTH OFFICER: The Director of the Summit County Health Department or his/her designee.

PUBLIC HEARING: A meeting noticed and advertised in advance and open to the public, in which members of the public have an opportunity to participate prior to formal action by the City. Public notice requirements are found in 13-1-20 of this Title.

PUBLIC IMPROVEMENT: Any drainage ditch or system, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off street parking area, lot improvement, water or sewer system, or other facility for which the City may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which City responsibility is established. All such improvements shall be properly guaranteed and installed pursuant to City codes, specifications and regulations.

RAILROAD INDUSTRIAL USES: Industrial uses and activities associated with the railroad including shipping and distribution of agricultural, timber products, minerals and other materials.

RECORD OF SURVEY: A survey consisting of a metes and bounds property description which includes an appropriate narrative as to its purposes and is certified by a registered land surveyor.

RECREATION, COMMERCIAL/PUBLIC (MOTORIZED): The use of land for commercial and promotional outdoor recreational activities and recreational activities made available to members of the public (not including private uses but including private and public facilities made available on a membership-type basis), including facilities such as those used for automobile

tracks and race courses, motocross and motorcycle tracks and race courses, snowmobile tracks and snowmobile race courses, snowmobile tours, all-terrain vehicle tracks and race courses, all-terrain vehicle tours, and other similar activities as determined by the City Planner. The use of land for motorized recreation events and activities which generate traffic, parking, and/or staging beyond those typically associated with private activities, or which includes activities in violation of the Oakley City noise ordinance shall be deemed to be subject to this definition.

RECREATION, COMMERCIAL/PUBLIC (NON-MOTORIZED): The use of land for commercial and promotional outdoor recreational activities and recreational activities made available to members of the public (not including private uses but including private and public facilities made available on a membership-type basis) including facilities such as: a) neighborhood/community playgrounds, campgrounds, golf courses, tennis courts, and community pools, and b) facilities associated with outdoor recreational activities such as mountain biking, horseback riding, skiing, snowshoeing, dog sledding, and other similar activities as determined by the City Planner.

RECYCLING FACILITY, CLASS I: A building, structure or designated area with recycling containers totaling up to sixty (60) cubic yards of capacity per lot or residential/business development used for the collection and temporary storage of recyclable materials such as glass, plastic, aluminum, mixed metals, fiber, and cardboard. These facilities are generally, limited to the use by a specific residential neighborhood, civic facility, or commercial business park.

RECYCLING FACILITY, CLASS II: A building, structure or designated area with recycling containers totaling over sixty (60) cubic yards of capacity per lot or residential/business development used for the collection, processing, composting, and temporary storage or transfer of recyclable materials such as glass, plastic, aluminum, mixed metals, fiber, and cardboard that may be for the use of the entire community.

REGISTERED ENGINEER: An engineer properly licensed and registered in the State.

REGISTERED LAND SURVEYOR: A land surveyor properly licensed and registered in the State of Utah.

REHEARSAL OR TEACHING STUDIO FOR CREATIVE, PERFORMING AND/OR MARTIAL ARTS WITH NO PUBLIC PERFORMANCES: A recreation facility operated as a business on private or public property and open to the public for a fee, such as a dance studio, gymnastics studio, music studio, or substantially similar use, and support facilities customarily associated with the development.

RESERVOIR: An artificial lake or pond used as a source of water supply, for recreation or aesthetic purposes.

RESIDENTIAL CARE FACILITY: A 24-hour group living environment for four (4) or more individuals that offers room and board and specialized care and treatment for the elderly or persons with disabilities.

RESTAURANT: A commercial establishment for preparation, consumption and sale of food and beverages on the premises or for take away consumption.

RETAIL COMMERCIAL ESTABLISHMENTS: An establishment primarily engaged in the sale or rental of commonly used goods and merchandise for personal or household use serving the immediate or surrounding neighborhood. Typical uses include apparel stores, drug stores, grocery stores, bookstores, auto parts stores, and other similar uses.

REZONE: A legislative enactment which changes the zone of a conforming or non-conforming parcel(s).

RIDGELINE: An elongated crest at the mountain's apex or an individual mountain summit or less distinct high points on hillsides/steep slopes.

RIDGELINE DEVELOPMENT: Development on the crest of a hill which has the potential to create a silhouette by extending into the skyline or other substantially adverse impact when viewed from a public road.

RIDING ARENA: A building or structure, the use of which is to board horses and/or conduct recreational activities and events, provide riding lessons, instruction or training and showing of horses or other domesticated animals.

RIDING ARENA, COMMERCIAL: A commercial business for the riding and/or training, boarding, breeding, or rental of horses.

RIGHT-OF-WAY: A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, irrigation ditch, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another special use. The usage of the term right-of-way for land platting purposes shall mean every right-of-way hereafter established and shown on a final subdivision plat to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, shade trees, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

RIVER: A natural stream of water of fairly large size flowing in a definite course or channel or series of diverging and converging channels. A river is fed along its course by converging tributaries.

ROAD, DEAD END: A local road, private road or public road with only one (1) vehicular traffic outlet.

ROAD, LOCAL: A roadway intended to provide access to and from a local subdivision or a cluster of single-family attached and/or multi-family dwelling units. It provides access to abutting properties.

ROAD, PRIVATE: A private vehicular way consisting of a right-of-way or easement and related improvements for the purpose of vehicular and pedestrian transportation.

ROAD, PUBLIC: Land intended for vehicular travel and transport by the public consisting of a right-of-way or easement and related improvements for the purpose of vehicular transportation. A public road is a Class A, B, C, or D highway, as set forth in State law.

SAWMILL: A facility where logs or partially processed cants are sawn, split, shaved, stripped, chipped or otherwise processed to produce wood products, not including the processing of timber for use on the same lot or parcel by the owner of that lot or parcel. Incidental sales of these products and associated products may occur on site.

SCREENING: A visual barrier.

SERVICE PROVIDER: A public or private entity providing public facilities or private utility services to a proposed use or development.

SETBACK: The distance between a lot line to the foundation of a structure or the finished exterior surface of a structure, whichever is closer to the property line, excluding uncovered stairs, roof eaves that do not extend into the setback more than three feet (3'), and decks that do not exceed one foot (1') in height, measured from the top of the deck to the grade directly below.

SETBACK, FRONT: The setback required for each side of a lot or parcel bordering a public road, private road or other right-of-way.

SHOOTING RANGE, INDOOR: A facility designed or used for archery and/or the discharging of firearms for the purposes of target practice or temporary competitions, which is completely enclosed within a building or structure.

SHOOTING RANGE, OUTDOOR: The use of land for archery and/or the discharging of firearms for the purposes of target practice, skeet and trap shooting, mock war games, or temporary competitions, which is not completely enclosed within a building or structure.

SIGN, FREESTANDING: A sign supported by poles, uprights or braces extending from the ground or from an object on the ground; provided that no part of the sign is attached to any part of a building.

SITE PLAN, FINAL: A document or map that may be required by Oakley City during a preliminary review preceding the issuance of a development permit to demonstrate that an owner's or developer's proposed development activity meets a land use requirement. Final Site Plans shall conform to the requirements of section 13-5-6 of this Title.

SKETCH PLAN: A sketch preparatory to the preparation of a final subdivision plat or Final Site Plan.

STAFF: Employees of the Oakley City Planning Department or Oakley City.

STATE: The State of Utah.

STREAM, EPHEMERAL: Ephemeral streams or spring flows are channels that do not flow on a regular annual basis but flow only during major storm events. Their channels lack continuous bed and bank features or appear discontinuous over their reach. If they are not connected to a water of the U.S., they are not afforded any protection under this Code.

STREAM, INTERMITTENT: The natural channel for water, having a continuous bed and bank, and which flows annually but not year-round.

STREAM, PERENNIAL: The natural channel for water having a continuous bed and bank, and which normally flows year-round.

STREET: See definitions of "private road", "local road", "public road".

STRUCTURE: Anything constructed, the use of which requires a fixed location on or in the ground and which projects above the general surface of the ground, or attached to something having a fixed location upon the ground, excluding poles, lines, cables, fences, on grade decks, driveways, and other similar features. All structures must maintain the minimum setbacks for the zone in which they are located, both above and below the ground. This definition includes "building".

SUBDIVISION: Any land that is divided, re-subdivided, or proposed to be divided into two (2) or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms and conditions. Subdivision includes the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument. Subdivision includes divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes. Subdivision does not include a bone fide division or partition of agricultural land for agricultural purposes or activity, nor does it include any of the specific circumstances designated in Utah Code Annotated section 10-9a-103(62)(c) and (d), as amended.

SUBDIVISION, APPLICATION FEE: The fee pertaining to subdivision approval as set forth in the City's annual master fee resolution.

SUBDIVISION PLAT, AMENDMENT: A change in a map, plan, or plat of an approved or recorded final subdivision plat if such change affects any street layout in such map, plan or plat, or any area reserved thereon for public use, or if it affects any map, plan or plat legally recorded prior to the adoption of any regulations controlling subdivisions. Also referred to as a re-subdivision.

SUBDIVISION PLAT, FINAL: The map, plan or plat of a subdivision and any accompanying material, as described in this Title, that is intended to be recorded in the Office of the County Recorder.

SUBDIVISION PLAT, RE-SUBDIVISION: The process of subdividing within a recorded subdivision.

SURVEYOR'S CERTIFICATE: A certification by a registered land surveyor which appears on a final subdivision plat, record of survey, or final site plan.

TELECOMMUNICATIONS EQUIPMENT: Equipment used in a telecommunications facility other than the antenna, antenna support structure or equipment enclosures. Telecommunications equipment may include, but is not limited to, electronic equipment necessary for processing wireless communication signals, air conditioning, backup power supplies and emergency generators.

TELECOMMUNICATIONS EQUIPMENT ENCLOSURE: A structure, shelter, cabinet or vault used to house and protect telecommunications equipment.

TELECOMMUNICATIONS FACILITY: An unmanned structure which consists of antennas, antenna support structures, telecommunications equipment and equipment enclosures, as defined herein, that transmit and/or receive voice and/or data communications through radio signals such as, but not limited to, cellular or "PCS" (personal communications system) communications and paging systems, whether commercially or privately operated.

TELECOMMUNICATIONS, NONSTEALTH DESIGN: Any antenna or equipment enclosures not camouflaged in a manner to blend with surrounding land uses, features or architecture. Non-stealth design does not conceal the intended use of the telecommunications facility. A monopole with equipment enclosures aboveground and unscreened are non-stealth.

TELECOMMUNICATIONS, STEALTH DESIGN: Antennas, antenna support structures and telecommunication equipment enclosures camouflaged or designed to blend with surrounding land uses, features and architecture, thus minimizing the aesthetic impact on adjacent uses, thereby concealing the intended use and appearance of the telecommunications facility, such as by heavy landscaping, or installing telecommunications equipment within existing buildings, behind vegetative screening, or placing equipment enclosures underground, thus preserving or striving to maintain the rural aesthetics within Oakley City. A flush wall mount antenna that is

painted the same color as the background and located on a building where the telecommunications equipment is located inside the building is an example of stealth design. Other examples of stealth design include, but are not limited to, roof mount antennas, utility pole antennas, light or flag poles, artificial rocks or trees.

TEMPORARY STRUCTURE OR BUILDING: Buildings and structures that meet the definition of temporary under the Building Code.

TITLE: Title 13 of the Oakley City Code.

UNDEVELOPABLE LANDS: Those lands which consist of steep slopes, wetlands or critical lands as set forth in section 13-2-4 of this Title.

UNINCORPORATED: Not part of a city or municipality.

USE: The activity that occurs on the land and/or within a structure.

USE, ACCESSORY: A use conducted on the same lot or parcel as the principal use or structure with which it is associated; and is a use which is clearly incidental to and is customarily found in connection with such principal use and is either in the same ownership as such principal use or is maintained and operated on the same lot or parcel substantially for the benefit or convenience of the owners, occupants, employees, customers or visitors of the principal use. No accessory use shall be allowed on any lot or parcel unless the principal use is being actively utilized.

USE, ALLOWED: Those uses which are permitted by right within a zone, as set forth in section 13-3-16, "Chart Of Allowed And Permitted Uses", of this Title.

USE, CONDITIONAL: Those uses which are conditionally permitted within a zone, as set forth in section 13-3-16, "Chart Of Allowed And Permitted Uses", of this Title.

USE, LOW IMPACT: A low intensity use as identified in section 13-3-16, "Chart Of Allowed And Permitted Uses", of this Title.

USE, PERMITTED: See definition of use, allowed.

USE, PRINCIPAL: A use that is an allowed use, a conditional use, or a low impact use. Does not include an accessory use or a temporary use.

USE, PROHIBITED: Any use that is not an allowed use, conditional use, temporary use, low impact use, or accessory use. A prohibited use cannot be permitted within the zone.

USE, TEMPORARY: A limited duration activity.

UTILITY ANCILLARY SUPPORT BUILDING: A building which is subordinate to a utility tower, necessary for the normal function of the utility tower and located on the same site as the utility tower.

UTILITY LINE, UNDERGROUND: Wires, cables, and pipes placed in the ground to transmit materials, energy services, or communication services.

UTILITY STRUCTURE AND RELATED FACILITIES: May include a building or structure that is constructed so as to provide assistance, benefit and aid, directly or indirectly, to a service such as electrical power, light, and forms of communication including: telephone, telegraph, fiber optic signals, cellular service for both analog and digital signals, and radio and television signals to name a few. This list is not intended to be all inclusive.

UTILITY TOWER: A structure typically higher relative to surrounding structures that provides a service in the form of electrical power, light, or forms of communication, limited to: telephone, telegraph and fiber optic signals. Utility towers do not include towers used exclusively for wireless communications.

VARIANCE, UNREASONABLE HARDSHIP: A hardship which complies with subsection 13-4-10D of this Title.

VARIANCE, USE: A variance from the use or density of a zone.

VARIANCE, ZONING: A waiver of specific zone regulations of this Title granted by the Appeal Authority in accordance with the provisions set forth in this Title and State law for the purpose of assuring that no lot or parcel, because of special circumstances applicable to it, shall be deprived of privileges commonly enjoyed by similar lots or parcels.

VESTED RIGHT: A legal entitlement to a use or structure.

VETERINARIAN CLINIC: A licensed medical establishment for the care and treatment of domestic animals.

WAREHOUSING AND STORAGE: An establishment offering wholesaling, storage, and handling of materials and equipment. May include storage warehouses, wholesale distributors, self-storage facilities, and moving and storage firms.

WATER OR WASTEWATER TREATMENT PLANT: The facility or group of units used for the treatment of industrial or domestic wastewater for sewer systems and for the reduction and handling of solids and gases removed from such wastes, in preparation for the discharge of treated waters into natural waters.

WATER RIGHT: The legal right to use water.

WATER, WET: Actual ability to obtain physical water from a source, such as through a water system or an operational well.

WETLAND: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions (hydric soils). Wetlands generally include swamps, marshes, bogs, and similar areas. An area of land can only be determined to be wetlands through designation by the U.S. Army Corps of Engineers.

ZONE: A land use area designated on the Zone District Map.

ZONE DISTRICT MAP: The official Zone District Map for Oakley City, adopted in accordance with State law and this Title.

APPENDIX B MASTER PLANNED DEVELOPMENT OPEN SPACE AND BONUS DENSITY CALCULATIONS

To further the goals and objectives of the Oakley City General Plan, for any MPD proposal, a bonus density above the base density for the appropriate zone may be awarded through a mutually acceptable development agreement and by utilizing one or more of the following incentives. Standards for evaluating open space protection and preservation are found in Section 11.0 of the General Plan and 13-15-11 of this Title and should follow the appropriate CEDAR guidelines of review as established therein (regardless of a Sensitive Lands Overlay (SLO) Zone status). It should also be noted that bonus density is not an entitlement or vested right and the calculations listed herein only provide a maximum bonus. Any bonus density does not modify the existing underlying zone designation(s). This maximum bonus density or a reduction thereof are negotiated in the final development agreement for the MPD based upon the degree in which the City realizes a real and sustainable public benefit.

A. Deed Restricted Open Space:

Deed restricted open space land consists of land in a subdivision or MPD that is left undeveloped and is deed restricted for public or private agricultural, scenic, open greenspace, or recreational purposes. Deed restricted open space does not include open areas in private individual residential lots, public roads, private road, parking spaces and drive aisles in parking lots, land covered by structures not designated for active civic recreational use, and outdoor storage areas.

Deed restricted open space is not a requirement for the development of base density, except in those instances where due to the number of lots an MPD is required (See 13-5-10).

Deed restricted open space is a requirement for the development of bonus density.

Bonus Density Calculation:

If the number of lots in a proposed subdivision within an MPD is greater than the base density, then so long as: a) the number and configuration of the lots complies with section 13-5-10 of this Title, and b) the greater of either the deed restricted open space required by this appendix or the ten percent (10%) open space minimum requirement of subsection 13-5-10E6 of this Title is set aside, the applicant shall be entitled to such increased number of lots in excess of base density.

The amount of required deed restricted open space is calculated using the following formula:

$$OS = (Z \times L) - (0.7 \times A)$$

Where:

OS - Required deed restricted open space, expressed in acres.

A - Area of parcel(s) being subdivided, expressed in acres.

Z - Zone factor which is the land area required to support a single dwelling unit or lot at base density. Expressed in acres per dwelling unit or lot.

L - Number of dwelling units or lots being proposed.

With the adopted zone districts:

AR-5 Z=5

AR-10 Z=10

AR-20 Z=20

AR-40 Z=40

RR-2 Z=2

RR-1 Z=1

For all CR zones, the Z factor is equal to the established density in dwelling units per acre converted to acres per dwelling unit.

Max number of dwelling units or lots at base density, $L_b = A/Z$.

When the number of dwelling units or lots proposed exceed the base density ($L > L_b$) then deed restricted open space is required.

NOTE: No more than fifty percent (50%) of the required deed restricted open space can consist of undevelopable lands i.e., wetlands, slopes over 30%, etc.

Example: For a 40-acre parcel in AR-5 Zone, Z=5 acres per dwelling unit and therefor the base density, $L_b=40/5$ or 8 dwelling units.

If 11 dwelling units are proposed to be developed, then deed restricted open space is required in the amount:

$$OS = (Z \times L) - (0.7 \times A)$$

$$OS = (5 \times 11) - (0.7 \times 40)$$

27 acres of deed restricted open space is required.

The developable area is thus 40 - 27 or 13 acres for 11 units plus any associated infrastructure.

In this example, no more than 13.5 acres (half of 27 acres) of required deed restricted open space can consist of undevelopable lands (wetlands, steep slopes etc.).

- B. Weber River Protection Bonus Density Calculation:** For development projects which border or cross the Weber River, an increased density bonus is offered if the dedicated open space encompasses the river corridor in a width which the City determines will provide a realistic buffer of protection to the river (i.e. very limited disturbance, roadless areas, grazing restrictions, etc.) For larger project parcels which have adequate land, the minimum deed restricted protected open space setback shall be 300 feet from the high-water level mark of one or both sides (if the property crosses the river). This section is used as an alternative to section A above and not in addition.

Utilizing the same criteria as specified in section A above, this slight formula adjustment allows for more density within a larger developable parcel acreage.

$$OS = (Z \times L) - (0.8 \times A)$$

NOTE: In this scenario, no more than fifty percent (50%) of the required deed restricted open space can consist of undevelopable lands i.e., wetlands, slopes over 30%, etc. outside of the river protection corridor which is exempt from this requirement.

Example: For a 40-acre parcel in AR-5 Zone, $Z=5$ acres per dwelling unit and therefor the base density, $L_b=40/5$ or 8 dwelling units. 2 acres will be used to provide the river protection open space, leaving 38 acres for use in the development parcel and the value of "A" in the calculations.

If 11 dwelling units are proposed to be developed, then deed restricted open space is required in the amount:

$$OS = (Z \times L) - (0.8 \times A)$$

$$OS = (5 \times 11) - (0.8 \times 38)$$

24.6 acres of deed restricted open space is required.

The developable area is thus $38 - 24.6$ or 13.4 acres for 11 units plus any associated infrastructure.

In this example, no more than 12.3 (half of 24.6 acres) acres of required deed restricted open space in the 38-acre development area can consist of undevelopable lands (wetlands, steep slopes etc.). The 2-acre protected area does not count against this limitation.

- C. **Public Non-Motorized Trails Bonus Density Calculation:** In addition to section A or B above, a bonus density may be achieved through the dedication of a public non-motorized trail access easement. This option is only available if the trail can become viable (i.e., completed through the property, can be maintained, and constructed in a sustainable manner) and is part of an overall City trail plan. In this scenario, a maximum bonus of two lots or dwelling units may be granted for every 300 feet of trail easement across a minimum of a five-acre parcel. A maximum bonus of one lot or dwelling unit may be granted for every 300 feet of trail easement on a minimum of a two-acre parcel. Trail construction, fencing, and upkeep are to be negotiated through the MPD joint development agreement. The type of trail surface and width is dependent upon the City trails plan or immediate transportation objective.
- D. **Water Conserving Landscape Designs and Systems.** In addition to bonuses allowed above developments and subdivisions which construct and implement a sustainable secondary irrigation system for all landscaping and irrigated open space, or as an alternative provide one hundred percent (100%) xeriscaping on non-secondary systems, lots may be granted a special density bonus. Secondary systems must be managed and kept in good and proper working condition by a private entity such as the HOA or contract with an outside entity or the City for the same at homeowner's expense. Up to one quarter (1/4) additional lot bonus density may be awarded per one (1) lot which meets these standards.
- E. **Other Density.** As per a joint development agreement, some development density may be awarded for the contribution to the City of critical public infrastructure and related property beyond the needs of the development. This type of density bonus is critically reviewed by the Planning Staff, the City Engineer, Planning Commission, and City Council. This is not a common source of density, if even allowed, and must present a clear, viable, and sustainable public benefit to the City.
- F. **Non-Residential Density:** Analogous to the concept of residential density in residential green space design developments is the concept of floor area ratios in nonresidential green space developments, i.e., commercial projects. Developers are given a base-level floor area ratio, a minimum percentage green space (above and beyond constrained land), and related standards to be met in their projects. Density bonuses, in terms of increases in the allowed floor area ratio, would also be possible in exchange for increased green space or other project enhancements.
- G. **Affordable Housing.** Units required to meet any additional residential affordable housing obligations of a subdivision or project as outlined in 13-6-5 above.

APPENDIX C ADULT/SEX ORIENTED FACILITIES AND BUSINESSES

- A. **Findings:** The City Council finds that the appropriate location for adult/sex-oriented facilities and businesses within the City is within certain areas of the City where it can be better regulated by City officials and law enforcement, and outside of residential or recreational (park) areas where the quality of life will not be as greatly impacted. Within the City, adult/sex-oriented facilities and businesses shall be allowed as a conditional use within the Agricultural AR-40 zones, as specified herein, and shall conform to the criteria mandated under this subsection and provisions of the Oakley City Code, governing such activities. Adult/sex-oriented facilities and businesses are prohibited all other zone districts.
- B. **Adult/Sex Oriented Businesses.** The types of businesses regulated by this chapter include adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort service, any business in which employees perform or appear in the presence of patrons of the business in a nude or semi-nude state, and any other business that provides any service related to the viewing or display of sexual activities as defined herein. This chapter does not apply to any sex therapist or similar individual licensed by the state of Utah to provide bona fide sexual therapy or counseling, licensed medical practitioner, licensed nurse, psychiatrist, or psychologist, any educator licensed by the state of Utah for activities in the classroom, or businesses that provide or facilitate legitimate modeling or exhibitions, which may occur in a state of nudity for purposes protected by the First Amendment or similar state protections.
- C. **Conditional Use Permit Required:** Adult/sex-oriented facilities and businesses are conditional uses in the Agricultural AG-40 Zones and must be approved in accordance with the provisions of this section and all other relevant portions of the Oakley City Code. In order to obtain a conditional use permit for an adult/sex-oriented facility or business, the applicant shall submit an application form with required documentation and accompanied with the appropriate fees. Such application shall satisfy the following requirements in addition to any other requirements under Oakley City Code for conditional use permits:
1. Provide a design and site plan diagramming the premises in accordance with the requirements of this chapter and demonstrating that the business is not located within a one thousand foot radius of any place of worship, park, school, residential zoning district, residential use, licensed child daycare center, public trail, or another adult/sex oriented facility or business as measured in a straight line, without regard to intervening structures, streets or other barriers from the nearest point of the property line of the other site to the nearest point of the property line of the sexually oriented business.

2. For existing buildings, demonstrate compliance with all applicable building, health, fire and other safety and construction codes, or for future buildings, agree to comply with all such codes.
3. Demonstrate compliance or agree to comply with all requirements of this chapter.
4. Provide Identification issued by a federal or state governmental agency with the applicant's colored photograph, signature, and physical description, proof that the applicant is at least twenty-one years of age, and the identity of each individual authorized by the applicant, if a corporation, partnership or other entity, to receive service of process.
5. A statement that the applicant has not previously had any license related to the operation of an adult/sex oriented business in any jurisdiction revoked for cause or has been convicted within the prior five years of prostitution or promotion of prostitution; dissemination of obscenity or illegal pornographic materials; sale, distribution or display of harmful material to a minor; sexual abuse; sexual abuse of a child; sexual exploitation of children; sexual performance by a child; possession or distribution of child pornography; sexual battery; rape; indecent exposure; indecency with a child; the crimes of criminal pandering, tax violations, embezzlement, or racketeering, if such crimes are directly related to the operation of a sexually oriented business; sexual assault; molestation of a child; or distribution of a controlled substance.
6. A description of the services to be provided by the business with sufficient detail to allow reviewing authorities to determine what business will be transacted on the premises, including the hours that the business will be open to the public and the methods of promoting the health and safety of employees and patrons and preventing them from engaging in illegal activity.

D. A public hearing shall be required in all cases prior to the issuance of a conditional use permit. The procedures for issuance of conditional use permits, as found in the appropriate title, shall be followed in all cases. A final decision by the City as to the issuance of a conditional use permit for an adult/sex-oriented facility or business shall be made within ninety (90) days of receipt of a completed application by the City Planning Development, unless a delay is requested or agreed upon by the applicant or where the applicant is causing the delay by not providing needed information.

- E. All adult/sex-oriented facilities and businesses shall comply with the following requirements:
1. Obtain and maintain a business license and all other required licenses and permits.
 2. Allow law enforcement and city officers to have access at all times to all premises for inspection.
 3. Refuse service to persons under the age of eighteen and exclude such persons from entering areas in which the adult/sex oriented activity occurs.

4. Provide means of fully screening and prohibiting the viewing of any display or exhibition of sexual activity or nude or semi-nude employees from non-patrons.
5. Require all employees to be eighteen years or older, and require all employees to obtain a sexually oriented business employee work license.
6. Prohibit the use of alcohol and other controlled substances on the business premises.
7. Prohibit gambling on the business premises.
8. Prohibit sexual activity on the business premises, which activity includes acts of masturbation, sexual intercourse, fellatio, cunnilingus, or manipulating, caressing or fondling by any person of the genitals, pubic area, breasts, or anus of a human.
9. Prohibit any employee from appear in a state of nudity or semi-nudity unless the employee is at least three feet from patrons and customers and on a stage at least two feet from the floor.

F. **Nonconforming Uses:**

1. **Right to Continue:** Adult/sex oriented facilities and businesses already existing within the City shall have the right to continue in their businesses without a conditional use permit. However, all such businesses shall be subject to compliance with the criteria, mandatory general conditions, and mandatory design of premises conditions, as provided in the Oakley City Code, within ninety (90) days of the adoption of the ordinance codified herein. A time extension may be granted where the City Council determines, on a case-by-case basis, that a hardship exists for a business owner/operator.
2. **Change or Extension/Enlargement of Use:** Any nonconforming use herein may not be materially changed, nor extended/enlarged unless it comes into compliance with the then existing Development Code.
3. **Cessation of Use:** If active and continuous operations are not carried on in a nonconforming use during a continuous period of one (1) year, the building or land where such nonconforming use previously existed shall thereafter be occupied and used only for a conforming use. Intent to resume active operations shall not affect the foregoing.

- G. **Penalty:** Violations of any of the provisions of this appendix shall subject the offender to the penalties as provided in this title, other applicable State law, or where no penalty is otherwise provided, a fine of not more than seven hundred fifty dollars (\$750.00) and a ninety (90) day jail sentence. Any false statement made in connection with any application, inspection, or license related to an adult/sex oriented business, or any two or more violations of this appendix may result in any permits issued under this appendix being revoked.