# ORDINANCE NO. 06-2022

**AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR PROVIDENCE CITY, UTAH; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.**

**BE IT ORDAINED BY THE PROVIDENCE CITY COUNCIL AS FOLLOWS:**

WHEREAS, The Code entitled "Providence City Code," published by Municode, consisting of titles 1 through 11, each inclusive, is adopted.

WHEREAS, All ordinances of a general and permanent nature enacted on or before March 16, 2022, and not included in the Code or recognized and continued in force by reference therein, are repealed.

WHEREAS, The repeal provided for in the above statement hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

WHEREAS, Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be guilty of a class B misdemeanor and punished by a fine not exceeding $1,000.00, imprisonment for a term not exceeding six months, or both such fine and imprisonment. Each act of violation and each day upon which any such violation shall continue or occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, Providence City may pursue other remedies such as abatement of nuisances, injunctive relief and revocation of licenses or permits.

WHEREAS, Additions or amendments to the Code when passed in such form as to indicate the intention to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

WHEREAS, Ordinances adopted after March 16, 2022, that amend or refer to ordinances that have been codified in the Code shall be construed as if they amend or refer to like provisions of the Code.

THEREFORE, This ordinance shall become effective this 21st day of September 2022.

Passed by vote of the Providence City Council this 21st day of September 2022.

| | | | | | |
|---|---|---|---|---|---|
| Nebeker, Jeff | (X) Yes | ( ) No | ( ) Excused | ( ) Abstained | ( ) Absent |
| Kirk, Carrie | (X) Yes | ( ) No | ( ) Excused | ( ) Abstained | ( ) Absent |
| Paulsen, Joshua | (X) Yes | ( ) No | ( ) Excused | ( ) Abstained | ( ) Absent |
| Sealy, Jeanell | (X) Yes | ( ) No | ( ) Excused | ( ) Abstained | ( ) Absent |
| Speth, Brent | (X) Yes | ( ) No | ( ) Excused | ( ) Abstained | ( ) Absent |

Providence City

Kathleen W. Alder, Mayor

Attest:

Ty Cameron, City Recorder

# Providence

## Cache County, Utah

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## Municipal Code 2

Compiled: Monday, October 3, 2022

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## CHAPTER 1-1 OFFICIAL CITY CODE

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**State law reference**—Ordinance codification, U.C.A. 1953, § 10-3-706 et seq.

### 1-1-1 Title

Upon adoption by the city council, this Code is hereby declared to be and shall hereafter constitute the Official City Code of Providence. This Code shall be known and cited as the "Providence City Code" (PCC) and is hereby published by authority of the city council and shall be supplemented to incorporate the most recent legislation of the city as provided in PCC 1-1-3. Any reference to the number of any section contained herein shall be understood to refer to the position of the same number, its appropriate chapter and title heading, and to the general clause relating thereto, as well as to the section itself, when reference is made to this Code by title in any legal documents.

(Code 1977, § 1-001; Code 1998, § 1-1-1)

### 1-1-2 Acceptance

This Code, as hereby presented in printed form, shall hereafter be received without further proof in all courts and in administrative tribunals of the state as the ordinances of the city of general and permanent effect, except the excluded ordinances enumerated in PCC 1-2-1.

(Code 1998, § 1-1-2)

### 1-1-3 Amendments

Any ordinance amending this Code shall set forth the title, chapter and section number of the section or sections to be amended, and this shall constitute sufficient compliance with any statutory requirement pertaining to the amendment or revision by ordinance of any part of this Code. All such amendments or revisions by ordinance shall be prepared for insertion in its proper place in each copy of this Code. Each such replacement page shall be properly identified and shall be inserted in each individual copy of this Code.

(Code 1998, § 1-1-3)

### 1-1-4 Code Alterations

It shall be deemed unlawful for any person to alter, change, or replace in any way any section or any page of this Code in such a manner that the meaning of any phrase or order may be changed or omitted. Replacement pages may be inserted when so authorized by the city council. The city recorder shall see that the replacement pages are properly inserted in the official copies maintained in the office of the city recorder. Any person having custody of a copy of the city code shall make every effort to maintain said Code current as to the most recent ordinances passed. Such person shall see to the immediate insertion of new or replacement pages when such are delivered or made available to such person through the office of the city recorder. Said Code books, while in actual possession of officials and other interested persons, shall be and remain the property of the city and shall be returned to the office of the city recorder when directed so to do by order of the city council.

(Code 1998, § 1-1-4)

### 1-1-5 Incorporation Of Statutes

Any reference or citation to any statute shall not be interpreted or construed to include, incorporate or make the reference a part of this Code unless the provisions of this Code specifically include, incorporate or make the citation a part of this Code. Any reference or citation to any statute not specifically included or incorporated or made a part of this Code may be changed, amended, or deleted without publication on order of the city council.

(Code 1977, § 1-009; Code 1998, § 1-1-5)

## CHAPTER 1-2 SAVING CLAUSE

1-2-1 Repeal Of General Ordinances
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## 1-2-1 Repeal Of General Ordinances

A. *Repealer; exceptions*. All general ordinances of the city passed prior to the adoption of this Code are hereby repealed, except such as are included in this Code or are by necessary implication herein reserved from repeal (subject to the saving clauses contained in the following sections), and excluding the following ordinances which are not hereby repealed: tax levy ordinances; appropriation ordinances; ordinances relating to boundaries and annexations; franchise ordinances and other ordinances granting special rights to persons or corporations; contract ordinances and ordinances authorizing the execution of a contract or the issuance of warrants; salary ordinances; fee ordinances; ordinances establishing, naming, or vacating streets, alleys or other public places; improvement ordinances; bond ordinances; ordinances relating to elections; ordinances relating to the transfer or acceptance of real estate by or from the city; and all special ordinances.

B. *Effect of repealing ordinances*. The repeal of the ordinances provided in subsection A of this section shall not affect any debt or fee which is accrued, any duty imposed, any penalty incurred, nor any action or proceeding commenced under or by virtue of the ordinances repealed or the term of office of any person holding office at the time these ordinances take effect; nor shall the repeal of any ordinance have the effect of reviving any ordinance heretofore repealed or superseded.

(Code 1977, § 1-003; Code 1998, § 1-2-1)

## 1-2-2 Public Ways And Public Utility Ordinances

No ordinance relating to the conduct, duties, service or rates of public utilities shall be repealed by virtue of the adoption of this Code or by virtue of PCC 1-2-1, excepting as this Code may contain provisions for such matters, in which case, this Code shall be considered as amending such ordinances in respect to such provisions only.

(Code 1998, § 1-2-2)

## 1-2-3 Court Proceedings

A. *Prior acts*. No new ordinance shall be constructed or held to repeal a former ordinance whether such former ordinance is expressly repealed or not, as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right accrued or claim arising under the former ordinance, or in any way whatever to affect any such offense or act so committed or so done, or any penalty, forfeiture or punishment so incurred or any right accrued or claim arising before the new ordinance takes effect, save

only that the proceedings thereafter shall conform to the ordinance in force at the time of such proceeding, so far as practicable. If any penalty, forfeiture or punishment may be mitigated by any provision of a new ordinance, such provision may be, by consent of the party affected, applied to any judgment announced after the new ordinance takes effect.

B. *Scope of section*. This section shall extend to all repeals, either by express words or implication, whether the repeal is in the ordinance making any new provisions upon the same subject or in any other ordinance.

C. *Actions now pending*. Nothing contained in this chapter shall be constructed as abating any action now pending under or by virtue of any general ordinance of the city herein repealed, and the provisions of all general ordinances contained in the Code shall be deemed to be continuing provisions and not a new enactment of the same provisions; nor shall this chapter be deemed as discontinuing, abating, modifying or altering any penalty accrued or to accrue, or as affecting the liability of any person, firm or corporation, or as waiving any right of the city under any ordinance or provision thereof in force at the time of the adoption of this Code.

(Code 1998, § 1-2-3)

### 1-2-4 Severability Clause

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Code or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Code, or any part thereof. The city council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

(Code 1977, § 1-007; Code 1998, § 1-2-4)

## CHAPTER 1-3 DEFINITIONS AND CONSTRUCTION

1-3-1 Construction Of Words
1-3-2 Definitions
1-3-3 Catchlines

### 1-3-1 Construction Of Words

Unless the context requires otherwise, the rules and provisions in this section shall apply to this Code.

The use of any verb in the present tense shall include the future and past tense when applicable.

*Employees*. Whenever reference is made in this Code to a city employee by title only, this shall be construed as though followed by the words "of Providence City."

*Gender*. Words of gender include all genders.

*Location*. Whenever any act, conduct or offense is prohibited or required and no reference is made to location, unless the context specifically indicates otherwise, the act, conduct, or offense prohibited or required shall be within the boundaries of the city.

*May*. The term "may" is construed as permissive.

*Number*. The singular includes the plural.

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

*Shall*. The term "shall" is construed as imperative.

*Time computed*. The time within which an act is to be done as provided in any ordinance or in any resolution or order of the city, when expressed in days, shall be determined be excluding the first day and including the last day, except if the last day be a Sunday or a legal holiday, then the last day shall be the day next following such Sunday or legal holiday which is not a Sunday or legal holiday.

*Week.* Shall be construed to mean any seven-day period.

(Code 1977, §§ 1-005(part), 1-005A, 9-111, 9-452; Code 1998, §§ 1-3-1, 1-3-2(part), 5-4-2(part), 5-5-2(part); Ord. of 9-25-2007; Ord. No. 006-2011, 7-26-2011)

**1-3-2 Definitions**

Whenever the following words or terms are used in this Code, they shall have such meanings herein ascribed to them, unless the context makes such meaning repugnant thereto:

*Accessory apartment unit (AAU)* means a second dwelling unit which is a self-contained dwelling unit located within a single-family dwelling unit, but has a separate entrance. It is a separate housekeeping unit that can be isolated within the original dwelling unit. An AAU maintains complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation, including a separate kitchen.

*Accessory building* means a subordinate building, detached, and used for a purpose customarily incidental to the main structure on a lot, such as a private garage, offices,

storage or repair facilities, etc. An accessory building may be constructed simultaneously with, but not prior to the main building.

*Accessory building (small)* means a small subordinate building, detached, and used for a purpose customarily incidental to the main structure on a lot, such as storage. A small accessory building may be constructed simultaneously with, but not prior to the main building. An accessory building is considered small if:

A. Does not require a building permit;

B. It is less than 200 square feet; and

C. Does not have plumbing or electrical features.

*Accessory dwelling unit (ADU)* means a second dwelling unit which is a self-contained dwelling unit located on an owner-occupied lot or parcel. It is in a detached building which maintains complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation, including a separate kitchen. See PCC chapter 10-13 for the regulations governing accessory dwelling units.

*Adjacent property* means:

A. A separate parcel or lot sharing a common border; or

B. Property owned by others that are located next to another property.

*Adjacent property owner* means record owner of real property that shares a common boundary with the applicant's property or is separated by a public right-of-way or canal, stream, etc.

*Adult bookstore* or *adult video store* means a commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following books, magazines, periodicals or other printed matter, photographs, films, motion pictures, videocassettes, compact discs, digital video discs, slides or simulated display, or other visual representations which are characterized by their emphasis upon the display of specified sexual activities or specified anatomical areas. For the purpose of this definition, the term "principal purpose" means the commercial establishment:

A. Has a substantial portion of its displayed merchandise which consists of said items;

B. Has a substantial portion of the wholesale value of its displayed merchandise which consists of said items;

C. Has a substantial portion of the retail value of its displayed merchandise which

consists of said items;

D. Derives a substantial portion of its revenues from the sale or rental, for any form of consideration, of said items;

E. Maintains a substantial section of its interior business space for the sale or rental of said items;

F. Regularly features said items, and prohibits access by minors, because of age, to the premises, and advertises itself as offering "adult" or "XXX" or "X-rated" or "erotic" or "sexual" or "sensual" or "pornographic" material on signage visible from a public right-of-way; or

G. Maintains an adult arcade, which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting specified sexual activities or specified anatomical areas.

*Adult cabaret* means a nightclub, bar, juice bar, restaurant, bottle club, or other commercial establishment, whether or not alcoholic beverages are served, which regularly features persons who appear nude and/or semi-nude.

*Adult motel* means a motel, hotel, or similar commercial establishment which:

A. Offers accommodations to the public for any form of consideration; provides customers with closed-circuit television transmissions, films, motion pictures, videocassettes, other photographic reproductions, or live performances which are characterized by the display or simulated display of specified sexual activities or specified anatomical areas and which advertises the availability of such material by means of a sign visible from a public right-of-way, or by means of any on- or off-premises advertising, including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television;

B. Offers a sleeping room for rent for a period of time that is less than ten hours; or

C. Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten hours.

*Adult motion picture theater* means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display or simulated display of specified sexual activities or specified anatomical areas are regularly shown to more than five persons for any form of consideration.

*Adult oriented business* means any use, business or commercial establishment

regulated under PCC chapter 3-9.

*Adult supervision* means direct visual supervision by a licensed driver who is at least 18 years of age.

*Advertising purposes* means purposes of propagandizing in connection with the commercial sale of a product or type of product, the commercial offering of a service or the commercial exhibition of an entertainment.

*Advocating* means speech or conduct intended to inform, promote, or support religious belief, political position, or charitable activities.

*A-frame* means a temporary or removable sign constructed with two sides attached at the top so at to allow the sign to stand in an upright position.

*Agent* means a person acting on behalf of another with authority conferred, either expressly or by implication.

*Agriculture* means the process of raising field, horticultural or garden crops or produce or the raising of domestic animals, fowl or honeybees for the purpose of commercial or home crop production.

*Alley* means a narrow public or private way which affords a secondary means of access to abutting property. An alley is not intended for general travel and must be less than 26 feet in width.

*Animal* means all nonhuman members of the animal kingdom, including domestic, exotic and livestock species.

*Animal control officer or assignee* means an authorized employee of the city, or a contracted agency employee.

*Appeals officer* means the city council or designee of the city responsible for receiving the information from the city and appellant regarding the denial or suspension of a certificate and issuing a decision.

*Appellant* means the person or entity appealing the denial or suspension of a certificate, either personally as an applicant or registered solicitor, or on behalf of the applicant or registered solicitor.

*Applicant* means an individual who is at least 16 years of age and not a corporation, partnership, limited liability company, or other lawful entity who applies for a certificate permitting door-to-door solicitation.

*Application form* means a standardized form provided by the city to an applicant to be completed and submitted as part of registration.

*Approved* means acceptable to the authority having jurisdiction.

*Approved backflow assembly* means accepted by the state department of health, bureau of drinking water/sanitation, as meeting an applicable specification or as suitable for the proposed use.

*Area of shallow flooding* means a designated AO, AH, AR/AO, AR/AH, OR VO zone on a community's flood insurance rate map (FIRM) with a one percent or greater annual chance of flooding to and average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

*Area of special flood hazard* means the land in the floodplain within the city subject to a one percent or greater chance of flooding in any given year. The area may be designated a Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map. Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE, or V. For the purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the term "area of special flood hazard."

*At large* means for an animal to be off the premises and not under control of its owner, an immediate family member or an authorized handler/trainer, and not under restraint by a leash, cord, chain or otherwise.

*Authorized receptacle* means a public or private litter storage and collection receptacle.

*Awning sign* means a roofed structure constructed of fabric, metal or other appropriate construction materials placed so as to extend outward from the building, providing a protective shield for doors, windows and other openings in the building, with supports extending back to the building, supported entirely by the building.

*Backflow* means the reversal of the normal flow of water caused by either back pressure or back siphonage.

*Backflow prevention assembly* means an assembly or means designed to prevent backflow. Specifications for backflow prevention assemblies are contained within the state plumbing code, or subsequently adopted substitute provisions, and the cross connection control program for the state.

*Ballpark advertising banner* means a banner attached to an athletic facility fence or building which identifies and advertises the sponsor.

*Bar* means a counter or similar structure:

A. At which alcoholic beverages are stored or dispensed; or

B. From which alcoholic beverages are served.

*Base flood* means the flood having one percent chance of being equaled or exceeded in any given year.

*Base flood elevation* means the water surface elevation of the one-percent annual chance flood. The height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

*Basement* means any area of the building having its floor subgrade (below ground level) on all sides.

*Basic city services* means those services determined in the sole discretion of the city to be necessary to protect the public health, safety and welfare of participants and spectators at any commercially related special event or free expression activity.

*BCI* means an original or copy, dated no older than 180 days prior to the date of the application, of either:

A. A state department of public safety bureau of criminal identification verified national criminal history report personal to the applicant; or

B. Verification by the state department of public safety bureau of criminal identification that no criminal history rising to the level of a disqualifying status exists for the applicant.

*Beacon light* means:

A. Any light with one or more beams, capable of being directed in any direction or directions, or capable of being revolved automatically; or

B. A fixed or flashing high intensity light, such as a spotlight, a floodlight or a strobe light.

*Bed and breakfast, residential*, means a residential structure used to provide rooms for temporary lodging for overnight guests on a paying basis; is occupied by the owner or individual responsible for operating the facility; and contains a maximum of five guestrooms.

*Bed and breakfast inn* means a building containing a minimum of six guestrooms used for accommodations or lodging of guests paying compensation where at least a breakfast meal is served.

*Bees* means flying insects, closely related to wasps and ants; any stage of the common domestic honeybee (*apismellifera*).

A. *Apiary* means any place where bee colonies are kept.

B. *Colony* means a hive and its equipment and appurtenances, including bees, comb, pollen and brood.

C. *Hive* means a structure intended for the housing of a bee colony.

*Beneficial use* means the purpose to which water diverted under a water right is applied and the amount of that right is applied and measured for a designated use. Examples include, but are not limited to, irrigation (amounts measured in acres); stock watering (amounts measured in numbers of equivalent livestock units); domestic (indoor residential - amounts measured in numbers of equivalent domestic units); and commercial, industrial, city (amounts measured in acre-feet). This definition reflects beneficial use, as defined by the Utah Administrative R655-16. Any changes to the definition of the term "beneficial use" by the state shall also change this definition of the term "beneficial use."

*Best management practices* or *BMPs* means physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, that have been approved by the city and that have been incorporated by reference as if fully set out therein. The relevant BMPs are more particularly defined in the Providence City Suggested BMP Manual.

*Billboard* means a freestanding, pay for use sign, erected for the purpose of advertising or promoting a product, event, person, etc.

*Blade sign* means an attached sign oriented perpendicular to the face of the building which projects more than 12 inches beyond the surface of the building to which it is affixed or supported.

*Block* means a piece of land surrounded by streets or other rights-of-way other than an alley; or land which is designated as a block on any recorded subdivision plat.

*Buffering* means plants placed intermittently against long expanses of building walls, fences, and other barriers to create a softening effect.

*Building* means:

A. Any structure used or intended for supporting or sheltering any use or occupancy; or

B. Any permanent structure having a roof supported from the ground by columns or walls.

See *Structure*.

*Building, height of*, means the vertical distance as measured from the highest point of the roof of the building down to a point representative of the average finished grade of the land around the perimeter of the building.

*Building, main*, means the principal building upon a lot or the building which houses the principal use upon a lot, such as a residence, business, etc. A residential building must be the main building on a residential lot.

*Business* includes all activities engaged in within the city carried on for the purpose of gain or economic profit, except that the acts of employees rendering service to employers shall not be included in the term "business," unless otherwise specifically provided.

*Business* means a commercial enterprise licensed by the city as a person or entity having a fixed or temporary physical location within the city.

*Business office, general*, means an office, generally focusing on business, government, professional, or financial services. Examples include professional services such as lawyers, accountants, engineers, or architects; financial business such as lenders, brokerage houses, bank headquarters, or real estate agents; data processing; sales offices; government offices; public utility offices.

*Business office, low impact*, means an office, limited to the purposes of receiving and sending mail or telephone calls or primarily conducted on a computer; carried on by members of the residing family; which use is clearly incidental and secondary to the use of the dwelling and does not change the character thereof; involving customer traffic, two or less a day. A low-impact business office does not require truck delivery or pickup of goods that is in excess of that common to a residential dwelling; no commercial display, nor any disturbances created by the occupation, such as noise, parking problems, increased traffic, unsightliness or pollution, etc.

*Business office, medium impact*, means service businesses (examples include professional services, such as lawyers, accountants, engineers, or architects; financial business, such as lenders, brokers, or real estate agents; data processing; sales offices; consultants) involving customer traffic, but no more than six customers, by appointment, per day or 30 per week; vehicles used for delivery and pickup are limited to those normally servicing residential neighborhoods.

*Business sign* means a sign identifying a commercial or industrial business on the same premises as the sign by name and/or logo. Business sign types are: ground, low-profile, nameplate, projecting, roof, wall, and billboard/on-premises signs.

*Cat (feline)* means any male, neutered male, female or spayed female cat of any age.

*Categorical pretreatment standard* means any regulation containing pollutant discharge limits promulgated by the Environmental Protection Agency in accordance with section

207(b) and (c) of the Federal Water Pollution Control Act (33 USC 1347) which applies to a specific category of industrial users.

*CCR* means covenants, conditions and restrictions.

*Certificate* means a temporary, annual, or renewal certificate permitting door-to-door solicitation in the city.

*Characterized by* means describing the essential character or quality of an item.

*Charitable activities* means advocating by persons or entities that either are, or support, a charitable organization.

*Charitable organization* means and includes any person, joint venture, partnership, limited liability company, corporation, association, group, or other entity:

A. That is:

    1. A benevolent, educational, voluntary health, philanthropic, humane, patriotic, religious or eleemosynary, social welfare or advocacy, public health, environmental or conservation, or civic organization;

    2. For the benefit of a public safety, law enforcement, or firefighter fraternal association; or

    3. Established for any charitable purpose.

B. That is tax exempt under applicable provisions of the Internal Revenue Code of 1986, as amended, and qualified to solicit and receive tax deductible contributions from the public for charitable purposes.

C. The term "charitable organization" includes a chapter, branch, area, or office, or similar affiliate or any person soliciting contributions within the state for a charitable organization that has its principal place of business outside the city or state.

*Child care*. A person providing child care, as that term is defined in U.C.A. 1953, § 26-39-102, and possessing the license required by the Utah Child Care Licensing Act (U.C.A. 1953, § 26-39-101 et seq.). Providence City also requires all day care providers and pre-schools to obtain a voluntary license from the state.

*Church* means a permanent building for the purpose of conducting religious services and other activities associated with a religious denomination.

*City* means Providence City, County of Cache, State of Utah, or authorized designee.

*City council* means, unless otherwise indicated, the city council of Providence City, Utah.

*City engineer* means any professional civil engineer licensed by the state and appointed by the city council to accomplish the objectives outlined in this Code, provided that no such person may serve the city and a subdivider simultaneously where the city engineer would have to check the city engineer's own work or the work of a member of the city engineer's firm in connection with any subdivision in the city.

*City-operated secondary irrigation water system* means the infrastructure, facilities, and appurtenant structures or devices (collectively "components") owned or controlled by or through the city, and operated and administered by the public works department to collect, conduct, and deliver pressurized secondary water. The term "city-operated secondary irrigation water system" includes both the components thereof as well as the water carried thereby or provided therefrom.

*City property* means any and all property owned by the city.

*City service valve* means the point of connection between the system and the applicant's secondary irrigation water pipe.

*City services* means the provision of city employees or equipment for services related to commercially related special events or free expression activities including police, fire and building inspection services other than those which are determined by the city to be basic city services. The term "city services" shall also include the city allowing the applicant or sponsor the exclusive use of city property including the exclusive right to sell merchandise on the property.

*Clinic (group medical practice)* means an office or suite of offices where two or more doctors practice.

*Cluster housing* means a development of land consisting of separate residential lots of record where conventional setbacks, lot sizes or density may be varied with adjacent land held in common, usually as open space, and where said common land is maintained by the city, private management or a homeowners' association.

*Code* means the City Code of Providence City, Utah.

*Code compliance department* means a city department and/or outside agency that enforces code compliance.

*Code compliance official/officer* means the person assigned by the city to enforce code compliance.

*Code enforcement agency*. Whenever the words "code enforcement agency" are used in the electrical code, they shall mean the city's building division or its assigns.

*Commercial complex* means cluster of close by and interconnected nonresidential buildings, facilities, and structures.

*Commercial garbage* refers to garbage produced in commercial establishments, public or quasi-public institutions or establishments, including restaurants, hotels, motels and similar establishments.

*Commercial handbill* means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter or literature which:

A. Advertises for sale any merchandise, product, commodity, or thing;

B. Directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest in sales thereof;

C. Directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind, for which an admission fee is charged for the purpose of private gain or profit. However, the terms of this subsection shall not apply where an admission fee is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition or event of any kind, when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order, provided that nothing contained in this subsection shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition or event of any kind without a license, where such license is or may be required by any state law, or under any city ordinance; or

D. While containing reading matter other than advertising matter is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes or for the private benefit and gain of any person so engaged as advertiser or distributor.

*Commercial properties* means parcels or lots within a commercial or industrial zoned district.

*Commercial street* means a street that functions to collect and distribute traffic between residential streets and other commercial and/or major streets and intersects with commercial properties. Commercial streets shall have a designated right-of-way of 80 feet.

*Community waste* means lawn cuttings, clippings from bushes and shrubs, leaves and trees and tree branches.

*Company* means Spring Creek Water Company or Providence Blacksmith Fork Irrigation Company, as appropriate.

*Competent individual* means a person claiming or appearing to be at least 18 years of

age and of sufficiently sound mind and body to be able to engage in rational thought, conversation, and conduct.

*Completed application* means a fully completed application form, a BCI, two copies of the original identification relied on by the applicant to establish proof of identity, and the tendering of fees.

*Conditional use* means a land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some area or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

*Connection* means when the meter is set for a residence, whether or not the service is turned on. The billing for a water connection begins on the day the meter is installed.

*Construction activities* means activities as defined in the stormwater construction permit.

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

*Container* or *regulation container* means a type of garbage or trash container as provided by the contracted garbage collector and having a tightfitting lid or properly and sufficiently treated weather-resistant bag manufactured specifically for use in garbage and refuse collection.

*Contaminant* means any physical, chemical, biological, or radiological substance or matter in water.

*Contamination* means a degradation of the quality of the potable water supply by nonpotable water, sewage, industrial fluids or waste liquids, compounds or other materials.

*Contractual franchise fee* means:

A. A fee:

1. Provided for in a franchise agreement; and
2. That is consideration for the franchise agreement; or
3. Any combination of subsections A.1 and 2 of this definition.

*Convenience store* means a small store, often franchised, offering a limited selection of food and household products.

*Corner lot obstruction* means any obstruction of vision on corner lots within 30 feet of said corner right-of-way. Obstructions shall not be permitted from two feet high to eight

feet high above finished grade of road. Trunks of trees, open-work fences at least 70 percent transparent, light or telephone poles or other small vertical protrusions not more than 12 inches in diameter shall be permitted within the clear-view area. Spacing of these protrusions shall not be closer than 15 feet.

*County* means the County of Cache, Utah.

*Court* means an open, unoccupied space, other than a yard, on the same lot with a building or group of buildings and which is bounded on two or more sides by such building or buildings. The width of a court shall be its least horizontal dimension as measured between opposite sides in the same direction as the yard or lot line on which the court opens. The length of a court shall be its least horizontal dimension as measured at a right angle to its width.

*Criminally convicted* means the final entry of a conviction, whether by a plea of no contest, guilty, entry of a judicial or jury finding of guilt, which has not been set aside on appeal or pursuant to a writ of habeas corpus. The criminal conviction is that offense of which an applicant or registered solicitor was convicted, without regard to the reduced status of the charge after completion of conditions of probation or parole, and charges dismissed under a plea in abeyance or diversion agreement.

*Crop production, commercial*, means the process of raising field, horticultural or garden crops or produce for the purpose of providing food production for sale.

*Crop production, home*, means the process of raising field, horticultural or garden crops or produce for the purpose of providing food production for the owner of the land upon which the crops or produce are raised, or for someone designated by said landowner, but not intended for sale.

*Cross connection* means any physical connection or arrangement of piping or fixtures which may allow nonpotable water or industrial fluids or other material of questionable quality to come in contact with potable water inside a distribution system. This would include any temporary connections, such as swing connections, removable sections, four-way plug valves, spools, dummy sections of pipe, swivel or change-over devices or sliding multi-part tubes or other plumbing arrangements.

*Crosswalk* or *walkway* means a right-of-way designated for use by pedestrians and not intended for use by motor vehicles of any kind when in use by a pedestrian.

*Cul-de-sac* means a street having one open end and being terminated at the other end by a vehicular turnaround; and shall not exceed 600 feet in length. A residential street cross section shall be used.

*Culinary water* means water that has been treated and tested as safe for human consumption in accordance with state water quality standards. Culinary water is also known as drinking water or potable water.

*Culinary water system* means the culinary water system that is operated by the city, meets state water quality standards and undergoes rigorous testing to ensure it is safe for human consumption.

*Customer* means a patron of a business.

*Dairy* means a commercial establishment set up for the purpose of manufacturing and/or processing or dairy products. This definition shall also include any accessory buildings related to dairying activities.

*Dairy business* means a commercial establishment for processing or selling milk and milk products.

*Dairying* means the keeping of milk-producing animals, offspring and breeding stock primarily for the production of milk and/or the processing of milk products.

*Days* means calendar days.

*Delinquen*t means an account whose bill is not paid within 30 days of the due date. Delinquent secondary irrigation bills may result in the termination of secondary water service or criminal penalties.

*Delivered value*.

A. The term "delivered value" means the fair market value of the taxable energy delivered for sale or use in the city and includes:

    1. The value of the energy itself; and

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

B. Delivered value does not include the amount of a tax paid under U.C.A. 1953, title 59, ch. 12, pt. 1 (U.C.A. 1953, § 59-12-101 et seq.) or U.C.A. 1953, title 59, ch. 12, pt. 2 (U.C.A. 1953, § 59-12-201 et seq.).

*Department store* means a large retail establishment with an extensive assortment in variety and range of goods, organized into separate departments. All departments are housed under the same roof to facilitate buying, customer service, merchandising, and control.

*Design standard*, when discussing water source protection, means a control which is implemented by a potential contamination source to prevent discharges to the groundwater. Spill protection is an example of a design standard.

*Developed parcel* means any parcel that has been altered from its natural condition by

grading, filling, or the construction of improvements.

*Developer* means any legal entity who subdivides a parcel of land. The developer may also be referred to as a subdivider.

*Development* means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

*Device* means any mechanism that is intended to produce, or that actually produces, noise when operated or handled.

*Direct visual supervision* means oversight at a distance of no more than 300 feet; and within which visual contact is maintained; and advice and assistance can be given and received.

*Disaster* or *emergency* means a situation causing or threatening to cause widespread damage, social disruption, or injury or loss of life or property resulting from attack, internal disturbance, natural phenomena or technological hazard.

*Discharge* means dispose, deposit, spill, pour, inject, seep, dump, leak or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means, including any direct or indirect entry of any solid or liquid matter into the municipal separate storm sewer system.

*Disconnection* means:

A. Shutting off a meter, valve, or service line so that no irrigation water can pass through the lines. Disconnection happens when customer payment is delinquent, at the written request of the owner, if a health and safety issue occurs, or if violations of this Code occur. A fee is charged for this service and must be performed by a public works employee; or

B. When a meter is shut off so no water can pass through the lines. This happens when the customer is delinquent with payment, at the written request of the owner, or at the request of the city council if infractions of this Code occur. A fee is charged for this service, which must be performed by a public works employee.

*Discontinuance* means the service is discontinued when a resident moves from the city and the services are no longer the resident's responsibility. The service is still on and water is available. The service is not discontinued until an account is set up with new owner or responsible party.

*Disqualifying status* means anything specifically defined for a solicitor as requiring the denial or suspension of a certificate, and any of the following:

A. The applicant or registered solicitor has been criminally convicted of:
    1. Felony homicide;
    2. Physically abusing, sexually abusing, or exploiting a minor;
    3. The sale or distribution of controlled substances; or
    4. Sexual assault of any kind;

B. Criminal charges currently pending against the applicant or registered solicitor for:
    1. Felony homicide;
    2. Physically abusing, sexually abusing, or exploiting a minor;
    3. The sale or distribution of controlled substances; or
    4. Sexual assault of any kind;

C. The applicant or registered solicitor has been criminally convicted of a felony within the last ten years;

D. The applicant or registered solicitor has been incarcerated in a federal or state prison within the past five years;

E. The applicant or registered solicitor has been criminally convicted of a misdemeanor within the past five years involving a crime of:
    1. Moral turpitude; or
    2. Violent or aggravated conduct involving persons or property;

F. A final civil judgment been entered against the applicant or registered solicitor within the last five years indicating that:
    1. The applicant or registered solicitor had either engaged in fraud, or intentional misrepresentation; or
    2. A debt of the applicant or registered solicitor was nondischargeable in bankruptcy pursuant to 11 USC 523(a)(2), (a)(4), (a)(6), or (a)(19);

G. The applicant or registered solicitor currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device;

H. The applicant or registered solicitor has an outstanding arrest warrant from any jurisdiction; or

I. The applicant or registered solicitor is currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.

*Distribute* means transfer possession of or permit to be viewed, heard or examined, with or without consideration.

*District* means a portion of the incorporated area of the city as shown on the zoning map and given a formal zoning district designation.

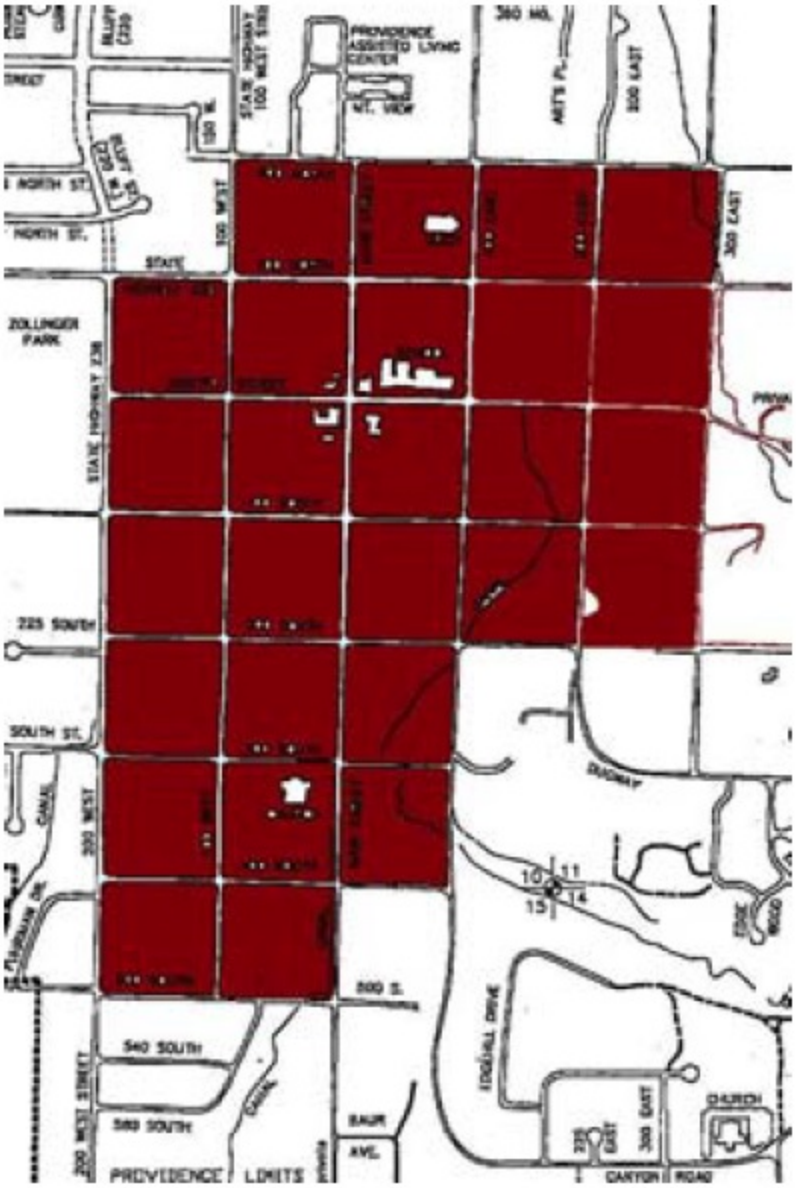
*Dog (canine)* means any male, neutered male, female or spayed female dog or any age.

*Dog of licensing age* means any dog which has been weaned or attained the age of two months.

*Domestic animal* means any animal customarily kept by humans.

*Door-to-door solicitation* means the practice of engaging in or attempting to engage in conversation with any person at a residence, whether or not that person is a competent individual, while making or seeking to make or facilitate a home solicitation sale or attempting to further the sale of goods and or services.

*Downtown area* means a portion of the incorporated area of the city located generally from 100 North south to 500 South and from 200 West east to 100 West, and from 200 North south to 500 South and from 100 West east to Main Street, and from 200 North south to 400 South and from Main Street to 100 East, and from 200 North south to 200 South and from 100 East east to 300 East.




*Driveway* means:

A. A primary drive access serving no more than two parcels; or

B. A private roadway, the use of which is limited to persons residing, employed at or otherwise using or visiting the lot on which the roadway is located.

*Duplex* means a single building containing two side by side dwelling units, approximately equal in size, but which sits on a single building lot and remains under the ownership of a single entity. Said dwelling units shall share at least 50 percent of a common wall. Single-family homes with basement apartments and other accessory apartments may not be considered a duplex.

*Dwelling, four-family*, means a single structure designed and constructed with four dwelling units under a single roof for occupancy by four families on one lot of record.

*Dwelling, multiple-family*, means any building or portion thereof, which is designed, built, rented, leased, or let to be occupied as five or more dwelling units which is occupied as a home or place of residence by five or more families living in independent dwelling units.

*Dwelling, single-family attached*, means a dwelling joined to another dwelling at one or more sides by at least 50 percent of a common wall, each dwelling being erected upon a separate lot of record which is designed for occupancy by one family on each lot of record. Attached housing may include townhomes, twin homes, condominiums and other common-wall housing. Where the term "single-family attached dwelling" is used, the common areas and facilities of the property are maintained by an association.

*Dwelling unit* means a building or portion of a building which is arranged as a habitable living unit to be occupied or intended to be occupied as living quarters and includes permanent sanitary, sleeping, and food preparation facilities which shall be accessible and available to all occupants of the unit.

*Each separate place of business* means each separate establishment or place of operation, whether or not operating under the same name, within the city, including a home or other place of lodging if the same is held out by advertisements, listings or otherwise as the establishment or place of operation of a person engaging in the business of selling tangible, personal property at wither retail or wholesale, or both, in the city.

*Easement* means:

A. A quantity of land, existing distinct from the ownership of the land, over which a liberty, privilege or advantage in land without profit is granted to the public or some particular person or part of the public;

B. An acquired privilege or right of use or enjoyment that a person, party, firm, corporation, municipality or other legal entity has in the land of another; or

C. A grant of land by a landowner (or as obtained by operation of law) for use of such land by the public, a corporation or other persons for specific uses and purposes as so designated or recorded.

*Electronic message board* means an electronic sign which flashed on or rolls a message across it about the services or products of the business and may also have the time and temperature displayed. The electronic message sign may be incorporated into a business sign, but may not increase that sign's maximum size or height. Electronic message signs will be allowed in permitted zones only after receiving approval for a conditional use.

*Emergency vehicle* means a motor vehicle used in response to a public calamity, or to protect persons or property from an imminent exposure to danger.

*Emergency work* means work made necessary to restore property to safe conditions following public calamity, or work required to protect persons or property from an imminent exposure to danger.

*Employ, employee,* and *employment* describe and pertain to any person who performs any service on the premises of a business, on a full-time, part-time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. The term "employee" does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

*Employee* means the operator or manager of a place of business and any persons employed in the operation of said place of business in any capacity and also any salesman, agent or independent contractor engaged in the operation of the place of business in any capacity.

*Energy supplier* means a person supplying taxable energy, except for persons supplying a de minimis amount of taxable energy, if such persons are excluded by rule promulgated by the state tax commission.

*Engage in or carry on any business* means and includes, but is not limited to, the sale of tangible personal property at retail or wholesale, the manufacturing of goods or property and the rendering of personal services for others for a consideration by persons engaged in any profession, trade, craft, business, occupation or other calling, except the rendering of personal services by an employee to the employer under any contract of personal employment.

*Entity* means and includes a corporation, partnership, limited liability company, or other lawful entity, organization, society or association.

*Equivalent residential unit* means that unit of demand that has an impact on the wastewater treatment infrastructure of the entity treating sewage that is equivalent to a single-family residence with a flow of 245 gallons per day.

*Erosion* means the process of the gradual wearing away of land masses.

*Erosion* means the removal of soil particles by the action of water, wind, ice or other geological agents, whether naturally occurring or acting in conjunction with or promoted by anthropogenic activities or effects.

*Establish* and *establishment* means any of the following:

A. The opening or commencement of any sexually oriented business as a new

business;

B. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or

C. The addition of any sexually oriented business to any other existing sexually oriented business.

*Existing construction* means, for the purposes of determining rates, structures for which the start of construction commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. Existing construction may also be referred to as "existing structures."

*Existing structures*. See *Existing construction*.

*Exotic animal* means any species of animal not considered domestic or livestock, except for turtles, nonpoisonous snakes, lizards, and mammalians.

*Exotic caged birds* means any avian species that is not indigenous to the state.

*Expansion to an existing manufactured home park or subdivision* means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

*Expenses* means actual labor costs of the city and voluntary personnel, including worker's compensation and other benefits, administrative overhead, costs of equipment, costs of equipment operation, costs of materials, and the costs of any contract labor and materials.

*Family* means any one of the following:

A. An individual living alone; or

B. The head of household and all persons related to the head of household by marriage, legal guardian, or conservator as a parent, child, grandparent, grandchild, brother, sister, uncle, aunt, nephew, niece, great-grandparent, great-grandchild.

*Farm, ranch* or *orchard* means an area of five or more acres which is used for the commercial production of crops or the keeping of the usual farm poultry and animals and normal accessory uses for these purposes.

*Fee* means:

A. A sum of money charged by the city for the carrying on of a business, profession, or occupation; or

B. The cost charged to the applicant or registered solicitor for the issuance of a certificate and/or identification badge, which shall not exceed the reasonable costs of processing the application and issuing the certificate and/or identification badge.

*Feed lots* means a building or lot where animals are fattened for market or other purposes.

*Fence* means a structure serving as an enclosure, a barrier, or a boundary, usually made of posts or stakes joined together by boards, wire, or rails. Fences are divided into two types: those which interrupt vision (solid) and those which permit vision (open).

*FHBM* or *FIRM* means the flood hazard boundary map (FHBM) or the flood insurance rate map (FIRM) for a community issued by the agency.

*Final civil judgment* means a civil judgment that would be recognized under state law as a judgment to which collateral estoppel would apply.

*Final plat* means a subdivision map prepared in accordance with the provisions of the city code that is accurately surveyed and with such survey results marked on the ground so that the streets, alleys, lanes, blocks, lots and other divisions thereof can be identified. The final plat is designated to be placed on record in the office of the county recorder.

*Fish* means any of the various, mostly cold-blooded aquatic vertebrates usually having scales and breathing through gills.

*Fitness center (gym)* means a membership (with monthly fees) based business offering basic programs for: weight loss, cardio training, muscle building, and body toning. The term "fitness center" may also include programs for sports training and offer classes in martial arts, kickboxing, yoga, aerobics or pilates. The term "fitness center" may also include retail sales of health products and fitness products for consumers. Health products may include vitamins and nutritional supplements. Fitness products may include bodybuilding supplements, fitness apparel, and other fitness equipment.

*Flat sign* means a sign erected parallel to and attached to the outside wall of a building. Signs flat against buildings or other structures will be allowed to extend two feet above the roof lines or parapet walls of the building. When a building has more than one level, the wall on which the sign is installed will govern.

*Flood* or *flooding* means:

A. A general and temporary condition of partial or complete inundation of normally dry land areas from:

    1. The overflow of inland or tidal waters.

2. The unusual and rapid accumulation or runoff of surface waters from any source.
3. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in subsection (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas.

B. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in subsection (a)(1) of this definition.

*Flood insurance rate map (FIRM)* means an official map of a community, on which the Administrator has delineated both the special hazard area and the risk premium zones applicable to the community.

*Flood insurance study* means an examination, evaluation and determination of flood hazards and if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

*Floodplain* or *floodprone area* means any land area susceptible to being inundated by water from any source (see Flood or flooding).

*Floodway*. See *Regulatory floodway*.

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

*Franchise tax* means:

A. A franchise tax;

B. A tax similar to a franchise tax; or

C. Any combination of subsection A or B of this definition.

*Front setback* means a line/arc running parallel to the adjacent right-of-way and through the parcel/lot.

*Frontage* means the distance along the parcel as measured along right-of-way line.

*Functionally dependent use* means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term "functionally

dependent use" includes only docking facilities, port facilities that are necessary for the loading and uploading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

*Game fence* means a fence the purpose of which is to protect gardens and fruit trees from game, such as deer, that has a maximum height of eight feet and made from mesh or other materials with openings no larger than four inches. If a property owner extends the height of a solid fence, anything above six feet must be open-work (open weave or mesh). See the following examples:

*Garage, private*, means an accessory building designed or used for the storage of motor-driven vehicles owned and used by the occupants of the building to which it is accessory. A garage shall be considered part of a dwelling if the garage and dwelling have a roof or wall in common.

*Garbage* means waste from the preparation, cooking or consumption of food, condemned food products and all refuse and waste from the handling, storage, preparation and sale of produce. Garbage originates primarily in kitchens, stores, markets, restaurants, hotels and other places where food is handled, stored, sold, cooked and consumed.

*General plan* means a plan, including maps or reports or both, which has been approved by the city council and the planning commission, which helps to establish lines of current and future planned streets, roads, highways, etc., as provided in the state code.

*Golf cart* means a three- or four-wheeled vehicle with a seating capacity of two to four persons, originally designed and produced for operation on golf courses.

*Goods* means one or more tangible items, wares, objects of merchandise, perishables of any kind, subscriptions, or manufactured products offered, provided, or sold.

*Governing body* means the city council of the City of Providence, Utah.

*Gravel or sand pit* means an open excavation from which gravel or similar material such as sand is obtained by digging, cutting or blasting.

*Greenhouse* means a building primarily constructed of clear or translucent material for the purpose of growing plants.

*Green space* means open space maintained in a natural, undisturbed, or revegetated condition.

*Gross revenue* means the revenue derived from the sale and use of public utility services within the city, provided the gross revenue as applied to the telephone utility shall mean basic local exchange services revenue received from subscribers located within the city and directly connected with the switchboards of the telephone utility located within the city.

*Ground sign* means a sign supported by a fixed permanent frame or support in the ground with no support or guying from any building. Ground signs must be a minimum of 24 inches in height.

*Gym*. See *Fitness center*.

*Hazardous materials emergency* means a sudden and unexpected release of any substance that, because of its quantity, concentration, or physical, chemical, or infectious characteristics, presents a direct and immediate threat to public safety or the environment and requires immediate action to mitigate the threat.

*Hearing officer* means an attorney with an independent practice and not a full-time employee of the city, licensed to practice law in the state.

*Height* means the vertical distance measured between the finished grade base of the fence/wall and the highest point of the fence/wall.

*Height, letter/logo*, means the height of each individual letter, logo, symbol, and/or icon in a sign.

*Height, sign*, as applied to a sign, means the vertical distance between the highest part of the sign or its supporting structure, whichever is higher, and finished grade at the center of the base of the sign.

*Highway* or *road* means and includes public bridges and may be equivalent to the words "county way," "county road," "common road," and "state road."

*Highway sign* means a sign along SR165 (and east along the north side of 100 North for a distance not to exceed 20 feet from the Logan/Providence boundary on the north side of 100 North) identifying a commercial or industrial business on the same premises, or within the same development boundaries as shown on the approved preliminary plat, as

the sign by name and/or products by name and/or logo. The term "highway sign" may also include an electronic sign which flashes on or rolls a message across it. Highway signs must have sufficient clearance and/or setback for visibility so as not to create a safety hazard.

*Historic structure* means any structure that is:

A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

    1. By an approved state program as determined by the Secretary of the Interior; or

    2. Directly by the Secretary of the Interior in states without approved programs.

*Home business*.

A. The term "home business" means a business conducted on land containing the primary dwelling or an adjacent parcel owned by the same owner;

B. A home business owner must be a resident of the primary dwelling;

C. A home business may employ family members residing in the primary dwelling;

D. A home business may employ no more than four individuals that do not reside in the primary dwelling but work at the premises;

E. A home business must provide sufficient parking and needed facilities for employees and customers completely and entirely on homeowner's land containing the primary dwelling or an adjacent parcel owned by the homeowner;

F. A home business does not change the aesthetic character of the area and zone;

G. No commercial display, other than an unlighted nameplate sign, which is three

square feet in area or less, is allowed for a home business;

H. Home businesses are subject to all licensing, inspections, laws and regulations, etc.

*Home business sign* means one unanimated, nonilluminated, flat, nameplate sign, having an area of not more than three square feet.

*Home solicitation sale* means to make or attempt to make a sale of goods or services by a solicitor at a residence by means of door-to-door solicitation, regardless of:

A. The means of payment or consideration used for the purchase;

B. The time of delivery of the goods or services; or

C. The previous or present classification of the solicitor as a solicitor, peddler, hawker, itinerant merchant, or similar designation.

*Hotel* means any building containing six or more guest rooms intended or designed to be used, or that are used, rented, or hired out to be occupied for sleeping purposes by guests.

*Household pets* means animals or fowl ordinarily permitted in a house and kept for company or pleasure (i.e., dogs, cats, small birds, etc.).

*Identification sign* means a sign displayed to indicate the name or nature of buildings, or industrial uses, located upon the same premises as the sign (i.e., schools, hospitals, churches, etc.).

*Illicit connections* means illegal and/or unauthorized connections to the municipal separate stormwater system whether or not such connections result in discharges into that system.

*Illicit discharge* means any discharge to the municipal separate storm sewer system that is not composed entirely of stormwater and not specifically exempted under the required permit.

*Illumination* means the enhancement of a sign utilizing electric lights, luminous tubes or other similar means.

A. *Direct illumination* means lighting by means of an unshielded light source (including neon tubing) which is effectively visible as part of the sign, where light travels directly from the source to the viewer's eye.

B. *Fluorescence* means the emission of light by a substance that has absorbed light or other electromagnetic radiation; which produces a short-wave ultraviolet light that then causes a phosphor coating on the inside of the bulb to glow.

C. *Indirect illumination* means lighting by means of a light source which is directed at a reflecting surface in such a way as to illuminate the sign from the front, or the entire building facade upon which the sign is displayed.

D. *Internal illumination* means lighting by means of a light source which is within a sign having a translucent background silhouetting opaque letters or designs, or which is within letters or designs which are themselves made of translucent materials.

E. *Neon lighting* means light consisting of glowing, electrified glass tubes or bulbs that contain rarefied neon or other gases.

*Implement of husbandry* means every vehicle designed or adapted and used exclusively for an agricultural operation and only incidentally operated or moved upon the highways.

*Impounded* means having been received into the custody of any authorized agent or representative of the city.

*Improved site* means a lot in an approved subdivision in which utilities, including water and sewer, curb, gutter, and sidewalk have been installed according to the approved construction drawings. Landscaping requirements may or may not have been met.

*Improvements* means devices, facilities or utilities required to be constructed or installed in a subdivision. Such improvements may include, but are not limited to, water facilities, sewer facilities, sidewalks, curbs and gutters, drainage facilities, streets, trees, street signs, street lights, traffic-control of safety devices, fire hydrants and such other facilities or construction required by the city code.

*Incident* means a single occurrence resulting in a documented report of a violation, a documented contact, or a citation, or any combination of the three.

*Individual unit* means a separately metered residence, a lot, garden lot or tract, vacant lot, or other unit served by irrigation water, whether or not maintained in the same group as other units or parcels. Each separate unit shall be required to pay minimum rates herein established.

*Indoor sales* means sales conducted inside permanent structures.

*Inflatable* means any device/object supported by heated air, forced air, or other gases for the purposes of drawing attention to a business.

*Influential interest* means any of the following:

A. The actual power to operate a sexually oriented business or control the operation, management or policies of a sexually oriented business or legal entity which operates a sexually oriented business;

B. Ownership of a financial interest of 20 percent or more of a business or of any class of voting securities of a business; or

C. Holding an office (e.g., president, vice president, secretary, treasurer, managing member, managing director, etc.) in a legal entity which operates a sexually oriented business.

*Inner block development* means residential development of dwelling structures occurring in the interior of existing blocks.

*Internal accessory dwelling (IAD) unit* means a second dwelling unit which is a self-contained dwelling unit located within a single-family dwelling unit, but has a separate entrance. It is a separate housekeeping unit that can be isolated within the original dwelling unit. An IAD maintains complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, sanitation, and a separate kitchen.

*Irrigation season* means the period during the year when irrigation rights provide available water. This is usually from April 1 to September 30.

*Irrigation water* means secondary water, as defined in this section.

*Junk* means old or scrap metal, rope, rags, batteries, paper trash, rubber, debris, waste, dismantled or wrecked automobiles or parts thereof, iron, steel and other old or scrap ferrous or nonferrous material.

*Junk yard* means the use of any lot, portion of any lot, or tract of land for the storage, keeping or abandonment of junk, including scrap metal, other scrap material or for the dismantling, demolition or abandonment of automobiles, vehicles, machinery, appliances, etc., or any parts thereof.

*Jurisdiction* means the boundaries of the city.

*Kennel* means any place or premises devoted to the keeping, harboring, breeding, buying or selling of more than three dogs over the age of three months.

*Knowingly* means to have actual or constructive knowledge of the contents of the subject matter. A person has constructive knowledge if a reasonable inspection under the circumstances would have disclosed the nature of the subject matter and if the failure to inspect is for the purpose of avoiding such disclosure. Knowledge of the obscene nature of material shall be presumed when a person fails to inspect materials after receiving a complaint as to the obscene nature thereof.

*Landscaping* means vegetative plantings, such as grass, trees, shrubs, vines and related improvements, such as pools, walkways, rockwork and sculpture, which is of a design that will beautify and enhance a property, control erosion and reduce glare.

*Lane* means a public or private way which affords primary access to abutting property.

*Large animals* means horses, cows, sheep, goats and other similarly sized domestic animals, except those expressly defined as household pets.

*License* means the permission granted for the carrying on of a business, profession or occupation. The term "license" includes any certificate or license issued by the city.

*Licensee* means:

A. A person in whose name a license to operate a sexually oriented business has been issued, as well as the individuals listed as an applicant on the application for a sexually oriented business license. In the case of an employee, the term "licensee" means the person in whose name a sexually oriented business employee license has been issued; or

B. Any person issued a license by the city to sell, store, or allow the consumption of alcoholic beverages on premises owned or controlled by the person.

*Licensing officer* means the city employees or agents responsible for receiving from an applicant or registered solicitor the completed application and either granting, suspending, or denying the applicant's certificate.

*Light manufacturing* means the fabrication or assembly of components into finished products using processes that ordinarily do not create noise, smoke, fumes, glare, or odors that exceed the requirements of the city code. Light manufacturing includes processes which do not require extensive floor area or land areas (must comply with zoning requirements for the zone that are listed in other chapters in the city code).

*Litter* means "garbage," "refuse" and "rubbish," as defined herein, and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety, welfare or appearance of the city.

*Livestock* means:

A. Any animal customarily kept by humans for the purpose of providing food, clothing or work, including, but not limited to, equine (mules, etc.), bovine (cows, etc.), ovine (sheep, etc.), caprine (goat, etc.), porcine (swine, etc.), equidae (horses, etc.), lama paco (llamas), leporidae (rabbits, etc.), and fowl (domestic poultry); or

B. The keeping of domestic animals such as cattle, horses, sheep, hogs or goats that are raised for commercial or home use.

*Living fence* means plants or shrubs planted and fashioned into a fence.

*Lodginghouse* means any building or portion thereof containing not more than five guest rooms where rent is paid in money, goods, labor or otherwise.

*Lot* means:

A. A parcel of land to which title is capable of being legally conveyed and includes any of its parts which are subject to a right; or

B. A parcel of land occupied, or to be occupied, by a main building, or group of buildings (main and accessory), together with such yards, open spaces, lot width and lot area as are required within the city code and having sufficient frontage upon, or access easement to, a public street.

*Lot width* means the distance measured along the building setback through the lot/parcel.

*Low-powered radio service* means communication systems which are not used for the broadcasting of information to the public but instead for communication purposes between individuals or entities via radio waves.

*Lowest floor* means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of section 60.3 of the National Flood Insurance Regulations.

*Maintenance* means any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. The term "maintenance" shall include complete reconstruction of a stormwater facility if reconstruction is needed in order to restore the facility to its original operational design parameters. The term "maintenance" shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater facility.

*Maintenance agreement* means a document recorded in the land records that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

*Major street* means a street which serves as a major traffic way, a controlled-access highway, major street parkway or other equivalent term to identify those streets comprising the basic structure of the street plan and shall have a designated right-of-way of 99 feet.

*Manufactured home* means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for used with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does

not include a recreation vehicle.

*Material* means approved items used to construct a fence.

*Material off-site impacts*. The following off-site impacts, when combined with the primary residential use, are considered material off-site impacts:

A. *Traffic created by customers*. Six customers per day or 30 per week.

B. *Delivery and pickup vehicles*. Vehicles that are larger than those normally servicing residential neighborhoods (including but not limited to semi tractors/trailers).

C. *Employees*. Employs persons that consistently work on site, but do not reside at the home.

D. *Vehicle parking*. Customer and employee parking that consistently exceeds the driveway capacity and two street-side spaces.

*Mean sea level* means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

*Menu signs* means any display of all or part of a food service menu, or a summary thereof, in such a way that it is visible from the exterior of the building.

*Mining and similar activities* means any mining or similar activity including gravel and/or sand pits, quarries, oil, gas and mineral extractions and treatment activities, facilities and operations. Sod farms, land leveling for agricultural purposes and excavation for permitted uses shall not be included in the term "mining and similar activities."

*Mobile home park* means any area or tract of land used or designed to accommodate two or more trailers, mobile homes or camping vehicles.

*Mobile or trailer home* means a vehicle with or without motive power, designed to be used for human habitation. The term "mobile or trailer home" also means a vehicular portable structure built on a chassis and designed to be used without a permanent foundation for human habitation not taxed as real property by the county.

*Monopole structure* means a single pole that acts as the support structure for one or more antennas for a cellular facility.

*Monument* means any sign which is connected to the ground and which has no clear space for the full width of the sign between the bottom of the sign and the surface of the ground. A monument sign includes a sign face and sign structure, and may also include a sign base and sign cap as described below:

A. *Sign base* means the above-ground foundation of the sign, which includes the exposed concrete footing for the sign.

B. *Sign cap* means a part of the sign structure located above the sign face that is constructed of a different masonry material and/or extends horizontally from the rest of the sign structure.

C. *Sign face* means the surface of the sign on which the sign message is located.

D. *Sign structure* means the structure surrounding the sign face.

*Motor vehicle* means any vehicle that is self-propelled by mechanical power, including, but not limited to, passenger cars, trucks, truck-trailers, campers, motorcycles, mini-bikes, go-carts, snowmobiles and racing vehicles.

*MS4 permit* means the general permit for discharges for small municipal separate storm sewer systems (MS4), permit latest version.

*Muffler* means an apparatus consisting of a series of chambers or baffle plates designed for the purpose of transmitting gases while reducing sound emanating from such apparatus.

*Municipal separate storm sewer system (MS4)* means the conveyances owned or operated by the municipality for the collection and transportation of stormwater, including the roads and streets and their drainage systems, catch basins, curbs, gutters, ditches, manmade channels, and storm drains.

*Nameplate sign* means a sign erected parallel to and attached to the outside wall of a building indicating the name and/or occupation of a person residing on the same premises or legally occupying the same premises, or indication a home business legally existing on the premises of the signs.

*National Pollutant Discharge Elimination System permit or NPDES permit* means a permit issued pursuant to 33 USC 1342.

*New construction* means, for the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

*Newspaper* means any newspaper of general or local circulation, or any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.

*No solicitation sign* means a reasonably visible and legible sign that states "no soliciting," "no solicitors," "no salespersons," "no trespassing," or words of similar import.

*Noise* means any sound that is unwanted or that causes or tends to cause an adverse psychological of physiological effect on human beings.

*Noncommercial handbill* means any printed or written matter, any sample, or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.

*Nonconforming building or structure* means a building, structure or portion thereof, lawfully existing at the effective date hereof, which does not conform to all height, area and yard regulations as detailed herein for the district in which it is located.

*Nonconforming lot* means a parcel of land with a separate legal description and property identification number existing at the effective date hereof, which did not meet the lot area, width and space requirements and whose size or shape has not been diminished or changed by sale or lease since the effective date hereof.

*Nonconforming use* means a land use or activity which was lawful prior to the adoption, revision, or amendment of the city code, but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the city code.

*Nonconforming use* means a use of land that:

A. Legally existed before its current use designation;

B. Has been maintained continuously since the time the land use ordinance governing the land changed; and

C. Because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

See similar provisions, U.C.A. 1953, § 10-9a-103(44).

*Notice of violation (NOV)* means the notice that, whenever the city finds that a person is in noncompliance, the city will send, ordering compliance by written notice of violation to the responsible person. Requirements in this notice are at the discretion of the city, and may include monitoring, payment to cover costs relating to the noncompliance, and the implementation of best management practices.

*Nude* or *nudity* means uncovered, or less than opaquely covered buttocks, human genitals, pubic areas, the human female breast below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state or in a condition of sexual excitement. For purposes of this definition, a female breast is considered uncovered if the nipple and the areola only are covered.

*Nudity* or *a state of nudity* means the showing of the human male or female genitals, pubic area, vulva, anus, or anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

*Nuisance* means:

A. Anything offensive to the sensibilities of reasonable persons, or any act or activity creating a hazard which threatens the health and welfare of inhabitants of the city, or any activity which by its perpetuation can reasonably be said to have a detrimental effect on the property of a person within the community;

B. Pursuant to U.C.A. 1953, § 78B-6-1101, a "nuisance" is anything which is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. A nuisance may be the subject of an action; or

C. The term "nuisance" means any condition or use of premises or of building exteriors which are deleterious or injurious, noxious or unsightly which includes, but is not limited to, keeping or depositing on, or scattering over the premises any of the following:

    1. Lumber, junk, trash or debris.

    2. Abandoned, discarded or unused objects or equipment such as furniture, stoves, refrigerators, freezers, cans, containers, machinery, canisters or automobiles, or other discarded items not currently in use.

*Obscene* means an act, depiction, representation, description, obscene performance, or any other item, material or conduct in this Code described, whether actual or simulated in form, which:

A. Taken as a whole, the average person would find appeals to the prurient interest when applying contemporary community standards;

B. It is presented in a patently offensive way by going substantially beyond customary limits of candor in description or representation of the aforesaid matters in the community; and

C. Taken as a whole, lacks serious literary, artistic, political, or scientific value.

*Obscene performance* means a play, motion picture, dance, show or other presentation, whether pictured, animated or live, performed before an audience and which, in whole or in part, depicts or reveals nudity as part of explicit sexual conduct or sadomasochistic abuse, or which includes explicit verbal description or narrative accounts of obscene sexual conduct.

*Obscenities* means those slang words currently and generally rejected for regular use in mixed society, that are used to refer to genitals, female breasts, sexual conduct or excretory functions or products, either that have no other meaning or that in context are clearly used for their bodily sexual or excretory meaning.

*Off-highway vehicle* or *OHV* means any snowmobile, all-terrain vehicle (ATV) or off-road motorcycle as defined by U.C.A. 1953, § 41-22-2. Note: The term "off-highway vehicle" does not include any vehicle designed to carry a disabled person, any vehicle not specifically designed for recreational use, any vehicle licensed by the state for on-highway use, or farm machinery including OHVs registered as an implement of husbandry when operated in accordance with U.C.A. 1953, § 41-22-5.5.

*Off-premises sign* means a sign advertising merchandise, services, or businesses other than those available on the premises. A sign within the same development boundaries as shown on the approved preliminary plat, of the sign's location is not considered off-premises.

*Offense* means any act forbidden by any provision of this Code or the omission of any act required by the provisions of this Code.

*Offensive businesses* includes, but is not limited to, packing houses, dairies, tanneries, canneries, renderies, junk or salvage yards, bone factories, slaughter houses, butcher shops, soap factories, foundries, breweries, distilleries, livery stables, blacksmith shops, or any other enterprise or establishment which creates excessive odors, fumes, smoke, gases, or noises.

*Officers* or *officials* means any elected or appointed person employed by the city unless the context clearly indicates otherwise. Whenever reference is made in this Code to a city officer of official by title only, this be construed as though followed by the words "of Providence City."

*Official map* means any map adopted by the planning commission and/or the city council under the provisions of the state code, as amended.

*Open space* means a portion of land or development site that is permanently set aside for public or private use and will not be developed. Open space may be used as community open space or preserved as green space.

*Operate* means:

A. To control the movement of or otherwise use an off-highway vehicle; or

B. To cause to function or to put or keep in a state of doing business.

*Operator* means:

A. The person who is in actual physical control of an off-highway vehicle;

B. The person who is in charge of any operation, business or profession; or

C. Any person on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may operate or cause to be operated a sexually oriented business, whether or not that person is an owner, part owner, or licensee of the business.

*Owner* means:

A. Any person who keeps or has charge, care or custody of an animal, except a veterinarian who is treating or caring for an animal in the regular practice of veterinary medicine or operation of a kennel, engaged in the regular practice of the owner's business as such;

B. The owner of real property located in the city;

C. A person, other than a person with a security interest, having a property interest or title to an off-highway vehicle and entitled to the use and possession of that vehicle;

D. And refers to the person, partnership, corporation, or other entity in which is vested the fee simple, unencumbered title of the property to be subdivided, unless otherwise clearly indicated; or

E. Means, as applied to a building or land, shall include any part owner, joint owner, tenant in common, and joint tenant or lessee of the whole or of a part of such building or land.

*Pandering* means catering to the lust or gratification of lust of another.

*Park* means a park, reservation, playground, recreation center or any other public area in the city owned or used by the city.

*Park strips* means the strip of land next to a road which is between the curb or future location of a curb and the sidewalk or property line.

*Peak use months* means those months when demand for usage of culinary water includes irrigation of lawns, gardens and parks.

*Peddler* includes any person, whether or not a resident of the city, traveling by foot, wagon, motor vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to

purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, motor vehicle, railroad car, or other vehicle or conveyance; and further provided, that one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of PCC chapter 3-5 shall be deemed a peddler subject to the provisions of PCC chapter 3-5. The term "peddler" shall include the terms "hawker" and "huckster."

*Permitted fireworks* means those fireworks which are permitted to be sold for consumer use by the state and discharged pursuant to the terms of this section and shall specifically include only model rockets, toy pistol caps, emergency flares, snakes (glow worms), party poppers, wire sparklers under 36 inches in length, matches, ground or handheld sparkling devices, ground audible devices, combination fireworks devices, and trick noisemakers as defined in this section.

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

*Personal communication system* means all forms of wireless communications which interconnect with the public switched telephone network.

*Personal property* means and includes every description of money, goods, chattels, effects, evidence of rights in action and all written instruments by which any pecuniary obligation, right or title to property is created, acknowledged, transferred, increased, defeated, discharged or diminished and every right or interest therein.

*Planned unit development (PUD)* means a development of land consisting of separate residential lots of record where conventional setbacks, lot sizes or density may be varied with adjacent land held in common, usually as open space, and where said common land is maintained by the city, private management or a homeowners' association.

*Planning commission* means the city planning commission, unless another planning commission is specifically named.

*Plot* includes the partial plots or single graves in the city cemetery.

*Plot owner or purchaser* and *grave owner or purchaser* means the owner or purchaser of burial privileges or the collateral right of use of any burial plot evidenced by a deed or burial right for a described plot or by proved and recognized descent or devise from the original owner.

*Political position* means any actually held belief, or information for, against, or in conjunction with any political, social, environmental, or humanitarian belief or practice.

*Political sign* means a sign used on behalf of a candidate for public office or in

opposition to or in support of a ballot proposition as defined under U.C.A. 1953, § 20A-1-102. Political signs are considered expressions of freedom of speech. They must be placed on private property and must be placed so they do not obstruct the view of pedestrians or drivers of vehicles (motorized or nonmotorized). Depending on the structure, a permit may be required.

*Pollution source* means point source discharges of contaminants to groundwater or potential discharges of the liquid forms of extremely hazardous substances which are stored in containers in excess of applicable threshold planning quantities as specified in SARA title III. Examples of possible pollution sources include, but are not limited to, the following storage facilities that store the liquid forms of extremely hazardous substances, septic tanks, drain fields, Class V underground injection wells, landfills, open dumps, landfilling of sludge and septage, manure piles, salt piles, pit privies and animal feeding operations with more than ten animal units. The following clarify the definition of pollution source:

A. *Animal feeding operation*. A lot or facility where the following conditions are met: Animals have been or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and crops, vegetation forage growth or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Two or more animal feeding operations under common ownership are considered to be a single feeding operation if they adjoin each other, if they use a common area or if they use a common system for the disposal of wastes.

B. *Animal unit*. A unit of measurement for any animal feeding operation, calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by one, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighing over 55 pounds multiplied by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by two.

C. *Extremely hazardous substances*. Those substances which are identified in the section 302 (EHS) column of the Title III List of Lists-Consolidated List of Chemicals Subject to Reporting Under SARA Title III (EPA 560/4-91-011).

*Pool* means a privately-owned outdoor pool or water for swimming, bathing, wading or reflecting and all hot tubs and spas which are capable of retaining a water depth equal to or greater than 24 inches at any point, but shall not include facilities for the purposes of providing water to livestock or for irrigation of crops which are associated with or located on and devoted to the practice of farming.

*Pot-bellied pig* means a domesticated miniature Vietnamese, Chinese or Asian pot-bellied or pot belly pig, not exceeding 125 pounds in weight and 18 inches in height measured at the shoulder. Pot-bellied pigs are not allowed in the city.

*Potential contamination source* means any facility or site which employs an activity or

procedure which may potentially contaminate groundwater. A pollution source is also a potential contamination source.

*Pound* means an animal shelter, lot, premises, or building maintained by or authorized or employed by the city for the confinement or care of dogs seized either under the provisions of this Code or otherwise.

*Pre-development* means the status of an item prior to any modification (i.e., native condition).

*Preliminary plat* means a map or plan of a proposed land divisions or subdivisions prepared in accordance with the requirements of this Code.

*Premises* means the real property upon which a sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in an application for a business license pursuant to PCC 3-9-4.

*Pressurized system* means a pressurized system has a constant pressure fed by a demand-actuated variable-speed motor, or a reservoir creating continuous gravity-sourced pressure.

*Principal uses setback* means the shortest distance measured perpendicular from the right-of-way to the closest point of primary structure.

*Private facilities* means piping and equipment beyond the city valve (where the user's system connects to the city-operated secondary irrigation water system).

*Private road* means a road which is built to city standards and specifications, but is privately owned and maintained.

*Projecting sign* means a sign attached to a building or other structure and extending in whole or in part more than 24 inches beyond any wall of the building or structures. The sign may not project above the roof line or tallest pert of the structure.

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

*Property boundary* means an imaginary line exterior to any enclosed structure, at the ground surface, and its vertical extension, that separates the real property owned by one person from that owned by another person.

*Property markers* means the iron stake installed by a licensed surveyor, and usually capped with a surveyor's identification cap, or others as may be listed on a deed.

*Property owner* means a landowner of property within the boundary of the city.

*Property sign* means a sign related to the property upon which it is located and offering such property for sale or lease or announcing improvements to the site during the construction of the project. Property signs may also be used to warn against trespassers.

*Prurient interest* means a shameful or morbid interest in nudity, sex, or excretion.

*Public building* means any building, or group of buildings, constructed by a government entity and intended for use by the general public as established by state law (i.e., public schools, government offices, etc.).

*Public facilities*, means only the following impact fee related facilities that have a life expectancy of ten or more years and are owned by the city, or the city's contracted entity, and which are operated on behalf of the city: a) Wastewater collection and treatment facilities.

*Public park* means a tract of land set aside for the purpose of providing recreation for the general public.

*Public parking area* means any land within the corporate limits of the city, other than public streets owned by or under the supervision and control of the city, county or any instrumentality of the state or federal government, which has been specifically designated or made available for off-street parking purposes for the public at large or for a particularly limited or specified purpose.

*Public place* means a place accessible or visible to members of the public or to casual passersby; or any place where a fee or charge is made for entrance or membership.

*Public right-of-way* means any street, avenue, boulevard, highway or alley or similar place that is owned or controlled by a public governmental entity.

*Public utility service* means the sale and use of local exchange telephone services and cable television services.

*Rear setback* means a line/arc running parallel to the rear property line/arc through the lot/parcel.

*Reasonable use*. The concept of reasonable use is based on the underlying premise that inefficient use of water is an unreasonable use of water. It is the use of water wherein specific garden plants, trees, shrubs or grass are supplied with an adequate and nonwasteful amount of water to that vegetation only, without overwatering to the extent of running down streets and gutters. The goal of reasonable use to achieve the maximum benefit for the least amount of water used.

*Reconnection* means:

A. The act of restoring water service by opening the meter valve to allow water to

flow through the meter. A fee is charged for this service, which must be performed by a public works employee; or

B. Opening the main service valve to allow water to flow through the service line so as to restore the pressurized city-operated secondary irrigation water service. reconnection requires payment of a fee and must be performed by a public works employee.

*Recreational vehicle* means a vehicle which is:

A. Built on a single chassis;

B. 400 square feet or less when measured at the largest horizontal projection;

C. Designed to be self-propelled or permanently towable by a light-duty truck; and

D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

*Refuse* means:

A. Putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, and solid market and industrial wastes; or

B. All waste matter, except garbage, attending, or resulting from the occupancy of residences, apartments, hotels, or other places of dwelling and from the operation of a business. The term "refuse" shall not include industrial waste or waste matter resulting from the construction, demolition or repair of a building or other structure.

*Registered solicitor* means any person who has been issued a current certificate by the city.

*Registration* means the process used by the city licensing officer to accept a completed application and determine whether or not a certificate will be denied, granted, or suspended.

*Regularly* means the consistent and repeated doing of the act so described.

*Regulatory floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

*Religious belief* means any sincerely held belief, or information for, against, or in conjunction with, any theistic, agnostic, or atheistic assumption, presumption or position, or religious doctrine, dogma, or practice regardless of whether or not the belief or

information is endorsed by any other person or public or private entity.

*Residence* means any living unit contained within any building or structure that is occupied by any person as a dwelling consistent with the zoning laws of the city, together with the lot or other real property on which the living unit is located. The term "residence" does not include the sidewalk, public street or public rights-of-way.

*Residence for persons with disabilities* means a residence:

A. In which more than one person with a disability resides;

B. Which is licensed or certified by the department of human services under U.C.A. 1953, title 62a, ch. 2 (U.C.A. 1953, § 62a-2-101 et seq.), Licensure of Programs and Facilities; or

C. Which is licensed for certified by the department of health under the Health Care Facility Licensing and Inspection Act (U.C.A. 1953, § 26-21-1 et seq.).

*Residential street* means a residential street is supplementary to a commercial and/or major street and for low to moderate volumes of traffic of limited continuity which serves or is intended to serve the local needs of a neighborhood. The right-of-way shall be 66 feet.

*Responsible person or entity* means that person or entity responsible to provide the following to an applicant, registered solicitor, and the competent individual in a residence to whom a sale of goods or services is made or attempted to be made by means of a home solicitation sale:

A. Maintaining a state sales tax number, a special events sales tax number, computing the sales taxes owing from any sale of goods or services, paying the sales taxes, and filing any required returns or reports;

B. Facilitating and responding to requests from consumers who desire to cancel the sale pursuant to applicable contractual rights or law; and

C. Refunding any monies paid or reversing credit card charges to those persons who timely rescind any sale pursuant to applicable contractual rights or law.

*Restricted lot* means a parcel of land severed or placed in ownership after April 8, 1963, and which does not meet all area, width, setback, yard and other space requirements of this Code for a lot. Also a parcel of land which does not meet all the requirements of this Code for a lot, but the creation of which has caused any adjacent or contiguous lot from which it was severed to be insufficient in area, width, setback, yard or space requirements, when such adjacent lot has a structure on it, or a building permit issued for the construction of a structure.

*Retailer* means:

A. Any person engaged in the sale or distribution of alcoholic beverages to the consumer; or

B. Unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things direct to the consumer.

*Right-of-way* means the privilege of the immediate use of the roadway or other property.

*Roof-mounted antenna* means an antenna or series of individual antennas mounted on a roof having less than or equal to a 3:12 pitch, mechanical room, or penthouse of a building.

*Roof top sign* means a sign attached to the roof top of any part of the structure. Roof top signs are not permitted.

*Rubbish* means nonputrescible solid wastes consisting of both combustible and noncombustible waste, such as paper, wrapping, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

*Runoff* means that portion of water or precipitation on a drainage area that is discharged from the area into the municipal separate stormwater system.

*Sadomasochistic abuse* means flagellation or torture by or upon a person who is nude or clad in undergarments or in revealing or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

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

A. Installment and credit sales;

B. Any closed transaction constituting a sale;

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

*Sale of goods or services* means the conduct and agreement of a solicitor and the competent individual in a residence regarding a particular good or service that entitles the consumer to rescind the same within three days under any applicable federal, state, or local law.

*Screening* means masonry wall, fence, hedge, berm, or vegetative planning or combination thereof which is of a design (height, width, material, etc.) that will provide a visual and audible barrier between land uses having different intensities of use.

*Seasonal business facility* means a facility for a business that is operated for a period of

120 days or less; generally associated with a season such as summer or fall produce sales, snow cone sales, etc.

*Secondary water* means untreated surface water that is nonpotable and of lower quality than culinary water. it is unsafe to drink and must be used solely for irrigation. The terms "secondary water" and "irrigation water," as referenced and used in this Code, shall have the same meaning.

*Secondary water stock designated representative* means a person appointed by resolution of the city council to represent the city's interest regarding water stock owned by the city in Providence Blacksmith Fork Irrigation Company, Spring Creek Water Company, and any other company in which the city holds water stock.

*Sediment* means solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface.

*Semi-nude* or *state of semi-nudity* means the showing or the simulated showing of a female breast with less than a fully opaque covering below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. The term "semi-nude" or "state of semi-nudity" includes the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

*Semi-nude model studio* means a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. The term "semi-nude model studio" does not apply to any place where persons appearing in a state of semi-nudity do so in a modeling class operated:

A. By a college, junior college, or university supported entirely or partly by taxation;

B. By a private college or university which maintains and operates educational programs in which credits are transferable to college, junior college, or university supported entirely or partly by taxation; or

C. In a structure which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and where, in order to participate in a class a student must enroll at least three days in advance of the class.

*Semi-permanent business facility* means a facility for a business that is operated not more than nine months during a calendar year or nine consecutive months.

*Septic tank systems* means a system which is comprised of a septic tank and a drain

field which accepts domestic wastewater from buildings or facilities for subsurface treatment and disposal. By their design, septic tank system charges cannot be controlled with design standards.

*Service areas* means areas of the city that have appropriate piping, valves and meters to supply pressurized secondary water to an area served by the public works department and designated in appendix A to the ordinance from which PCC chapter 8-5 is derived.

*Service dog* means a specifically trained canine assigned to a disabled person for the specific purpose of assisting the disabled person. Assistance and service dogs include, but are not limited to, guide dogs for the blind, hearing dogs, police K-9 dogs, and search dogs. An assistance or service dog is not considered a pet.

*Service sign* means a sign which is incidental to a use lawfully occupying the property upon which the sign is located and which sign is necessary to provide information to the public, such as direction to parking lots or location of the restrooms.

*Services* means those intangible goods or personal benefits offered, provided, or sold to a competent individual of a residence.

*Setback* means the shortest distance from a building on a lot to any property line, lot line or public road right-of-way adjacent to said lot.

*Sexual conduct* means human masturbation, sexual intercourse, or any touching of the covered or uncovered genitals, human female breast, pubic areas or buttocks of the human male or female, whether alone or between members of the same or opposite sex or between humans and animals, in an act of apparent sexual stimulation or gratification, which shall include, but not be limited to fellatio, cunnilingus, pederasty, and bestiality.

*Sexual device* means any three-dimensional object designed or marketed for stimulation of the male or female human genital organ or anus or for sadomasochistic use or abuse of oneself or others and shall include devices such as dildos, vibrators, penis pumps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include any device primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

*Sexual device shop* means a commercial establishment that regularly features sexual devices. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services, nor shall this definition be construed to include commercial establishments which do not restrict access to any portion of their premises by reason of age.

*Sexual encounter center* means a business or commercial enterprise that, as one of its principal business purposes, purports to offer for any form of consideration, physical contact in the form of wrestling or tumbling when one or more of the persons is semi-

nude.

*Sexual excitement* means the condition of human male or female genitals or the breasts of the female when in a state of sexual stimulation, or the sensual experience of humans engaging in or witnessing sexual conduct or nudity.

*Sexually oriented business* means an adult bookstore or adult video store, an adult cabaret, an adult motel, an adult motion picture theater, a semi-nude model studio, sexual device shop, or a sexual encounter center.

*Shopping center* means a complex of stores, movie theaters, restaurants, etc., grouped together and having a common parking area.

*Sign* means every name, number, identification, description, announcement, declaration, demonstration, device, display, flag, banner, pennant, illustration, logo, balloon, streamer, valance, advertising display, poster, beacon light, light or insignia which directs attention to any object, project, service, place, activity, person, institution, organization, or business. The sign consists of the sign area and the sign structure.

*Sign area* means a two-dimensional area on a building or other permitted sign structure that is the area that encompasses the proposed sign in its entirety.

*Sign structure* means the structure supporting any of the same, affixed directly or indirectly to or upon any building or outdoor structure, or erected or maintained upon a piece of land.

*Simulated showing* or *simulated display* means the utilization of a device or covering, exposed to view, that realistically appears to be any part of a specified anatomical area.

*Small miniature farm animals* means farm animals especially bred for their small size. Small miniature farm animals are not allowed as pets.

*Snipe sign* means a sign attached to a public utility pole, fixture poles, canopy supports, or the supports for another sign and attached by someone other than the pole or support owner or agent. Snipe signs are not permitted.

*Snowmobile* means any motor vehicle designed for travel on snow or ice and steered in whole or in part by skis, belts, cleats, runners, or low-pressure tires.

*Soliciting, solicit* or *solicitation* means any of the following activities:

A. Seeking to obtain sales or orders for the exchange of goods, wares, merchandise or perishables of any kind, for any kind of remuneration or consideration, regardless of whether advance payment is sought;

B. Seeking to obtain prospective customers to apply for or to purchase insurance, subscriptions to publications, or publications;

C. Seeking to obtain contributions of money or any other thing of value for the benefit of any person or entity;

D. Seeking to obtain orders or prospective customers for goods or services;

E. Seeking to engage an individual in conversation at a residence for the purpose of promoting or facilitating the receipt of information regarding religious belief, political position, charitable conduct, or a home solicitation sale;

F. Other activities falling within the commonly accepted definition of soliciting, such as hawking or peddling.

*Solicitor* means a person engaged in door-to-door solicitation.

*Sound* means a temporal and spatial oscillation in pressure, or other physical quantity, in a medium with interval forces that causes compression and rarefaction of that medium, and that propagates at finite speed to distant points.

*Special cases* means special requirements for fence installation on hillsides or extreme slopes.

*Special event* means any athletic event, commercially related special event, free expression activity, entertainment event or political event, whether held for profit, nonprofit or charitable purposes.

*Special hazard area* means an area having special flood, mudslide (i.e., mudflow), or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, A99, AH, VO, V1-30, VE, V, M, or E.

*Specified anatomical area* means and includes:

A. Less than completely and opaquely covered human genitals, pubic region, anus, anal cleft, buttock and female breast below a point immediately above the top of the areola; and

B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

*Specified criminal activity* means:

A. Any of the following specified crimes for which less than five years elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:

    1. Dissemination or distribution of obscenity or pornographic material;

    2. Distribution of a controlled substance;

3. Engaging in organized criminal activity relating to a sexually oriented business;
4. Indecency with a child, including:
    a. Unlawful sexual activity with a minor;
    b. Sexual abuse of a minor; and
    c. Lewdness involving a child;
5. Indecent exposure or lewdness;
6. Molestation of a child, including:
    a. Rape of a child;
    b. Object rape of a child;
    c. Sodomy of a child;
    d. Sexual abuse of a child; and
    e. Aggravated sexual abuse of a child;
7. Sexual exploitation of a minor;
8. Prostitution or promotion of prostitution, including:
    a. Patronizing a prostitute;
    b. Aiding prostitution;
    c. Exploiting prostitution; and
    d. Aggravated exploitation of prostitution;
9. Rape, including:
    a. Object rape;
    b. Forcible sodomy; and
    c. Forcible sexual abuse;
10. Sale, distribution or display of harmful material to a minor, including:
    a. Indecent public displays; and
    b. Dealing in harmful material to a minor;
11. Sexual assault or aggravated sexual assault;
12. Sexual performance by a child;

13. Criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses; or

14. Any offense in another jurisdiction that, had the predicate act been committed in the state, would constitute any of the foregoing offenses; or

B. Any attempt, solicitation, or conspiracy to commit one of the offenses listed in subsection (a) of this definition.

*Specified sexual activity* means any of the following:

A. Actual or simulated intercourse, oral copulation, masturbation or sodomy; or

B. Actual or simulated excretory functions as a part of or in connection with any of the activities described in subsection (a) of this definition.

*Start of construction*, for other than new construction or substantial improvements under the Costal Barrier Resources Act (Pub. L. 97-348), means and includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filing; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

*State* means the State of Utah.

*State department of public safety* means the county sheriff or the county sheriff's agent.

*State road commission* means the city and its officers, departments, agencies, and agents.

*Stealth-fixture antenna* means one or more antennas attached to a supporting structure which is disguised as part of the structure or otherwise concealed from public view as much as reasonably possible.

*Storage* means any keeping or retention of taxable energy in the city for any purpose, except sale in the regular course of business.

*Stormwater* means stormwater runoff, snow melt runoff, surface runoff, street wash waters related to street cleaning or maintenance, infiltration and drainage.

*Stormwater construction permit* means stormwater general permit for construction activities permit latest version as required by the state department of environmental quality, division of water quality.

*Stormwater management* means the programs to maintain quality and quantity of stormwater runoff to pre-development levels.

*Stormwater pollution prevention plan (SWPPP)* means the set of drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMPs, concepts and techniques intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels during and after construction.

*Stormwater runoff* means that portion of stormwater on a drainage area that is discharged from the area into the municipal separate stormwater system.

*Stormwater system* means a system or network of stormwater and surface water management facilities.

*Stormwater utility* means the stormwater utility created by city ordinance to administer the stormwater management ordinance set forth in PCC chapter 7-8, and other stormwater rules and regulations adopted by the municipality.

*Stormwater utility fee* means monthly service charge imposed on property.

*Street* means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane. The term "street" includes alleys, lanes, courts, boulevards, public ways, public squares, public places, sidewalks, gutters and culverts, crosswalks and intersections.

*Street banner sign* means a temporary fabric sign suspended across a city street. The banner may only advertise a public service event.

*Street sign* means signs used for traffic, including, but not limited to, regulatory, directional, stop, speed limit, street closure, construction, etc.

*Structure* means any assemblage of materials into a finished product that stands above the ground such as a building, fence, wall, etc.

*Structure* means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. The term "structure," for insurance purposes, means:

A. A building with two or more outside rigid walls and a fully secured roof, that is affixed to a permanent site;

B. A manufactured home (the term "manufactured home," also known as a mobile home, means a structure built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation); or

C. A travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the city's floodplain management and building ordinances or laws.

For the latter purpose, the term "structure" does not mean a recreational vehicle or a park trailer or other similar vehicle, except as described in subsection C of this definition, or a gas or liquid storage tank.

*Subdivide* (and any derivative thereof). See *Subdivision*.

*Subdivider* means any legal entity who subdivides a parcel of land. A subdivider may also be referred to as a developer.

*Subdivision* means the division of a tract of lot or parcel of land into two lots or more. Further, the term "subdivision" shall not apply to the sale or conveyance of any parcel of land which may be shown as one of the lots of the subdivision of which the plat has heretofore been recorded in the office of the county recorder.

*Subdivision requirements* means those requirements that are adopted by the various governing bodies in the city for the necessary proper development of the proposed subdivision.

*Submitted in writing* means the information for an appeal of a denial or suspension of a certificate, submitted in any type of written statement to the city offices by certified, registered, priority, overnight or delivery confirmation mail, facsimile, or hand delivery.

*Substantial* means at least 35 percent of the items or words so modified.

*Substantial damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

*Substantial improvement* means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. The term "substantial improvement" includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term "substantial improvement" does not, however, include either:

A. Any project for improvement of a structure to correct existing violations of state or

local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions; or

B. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

*Substantiated report* means an oral, written, or electronic report:

A. That is submitted to and documented by the city;

B. By any of the following:

1. A competent individual who is willing to provide law enforcement or other city employees with publicly available identification of their name, address, and any other reliable means of contact;
2. City law enforcement or licensing officer; or
3. Any other regularly established law enforcement agency at any level of government;

C. That provides any of the following information regarding a registered solicitor:

1. Documented verification of a previously undisclosed disqualifying status of a registered solicitor;
2. Probable cause that the registered solicitor has committed a disqualifying status which has not yet been determined to be a disqualifying status;
3. Documented, eyewitness accounts that the registered solicitor has engaged in repeated patterns of behavior that demonstrates failure by the registered solicitor to adhere to the requirements of this Code; or
4. Probable cause that continued licensing of the registered solicitor creates exigent circumstances that threaten the health, safety, or welfare of any individuals or entities within the city.

*Surface water* includes waters upon the surface of the earth in bounds created naturally or artificially, including, but not limited to, streams, other water courses, lakes and reservoirs.

*System*, when used in PCC chapter 8-5, refers to the city-operated secondary irrigation water system.

*System improvements* means:

A. Existing public facilities that are:

1. Identified in the impact fee analysis (IFA), attached as exhibit A to the ordinance from which PCC chapter 9-1A is derived; and
2. Designed to provide services to the service areas within the community at large; and

B. Future public facilities that are intended to provide services to service areas within the community at large.

*Taxable energy* means gas and electricity.

*Technological hazard* means any hazardous materials accident, mine accident, train derailment, air crash, radiation incident, pollution, structural fire, or explosion.

*Temporary business facility* means a facility for a business that is operated for a period of 45 days or less; may be associated with an event, such as fireworks sales, Christmas trees sales, etc.

*Temporary fencing* means silt fences and temporary safety fences, mainly installed for construction and building projects.

*Temporary identification sign* means a sign displayed to indicate the name or nature of business, buildings, or industrial uses, located upon the same premises as the sign (i.e., schools, hospitals, churches, etc.) that may be a banner or pennant, constructed of paper, cloth, canvas, light fabric, cardboard, wallboard or other light materials, with or without light frames, intended to be displayed outdoors for short periods of time. Temporary identification signs may be displayed for a period of no more than 180 days.

*Temporary sign* means any sign, banner, pennant, balloon or advertising display constructed of paper, cloth, canvas, light fabric, cardboard, wallboard or other light materials, with or without light frames, intended to be displayed outdoors for a short period of time. Temporary signs may be posted for a period of not more than 30 days or until 24 hours after the event, whichever is shorter.

*Temporary stand, trailer and tent* mean a nonpermanent structure used exclusively for the sale of fireworks.

*Tenant* or *occupant*, as applied to a building or land, includes any person who occupies the whole or any part of such building or land, whether alone or with others.

*Termination* means the act of closing an account due, for the most part, to a resident moving. Termination leads to discontinuance of service but not disconnection.

*Tire sales, retail*, means a building or premises used for the retail sale and installation of tires and related under car services; but not including paint, body and frame repair, or rebuilding of engines, transmissions, or differentials.

*Trailer* or *mobile home* means a vehicle with or without motive power, designed to be used for human habitation. Also, a vehicular portable structure built on a chassis designed to be used without a permanent foundation for human habitation not taxed as real property by the county.

*Transient merchant, itinerant merchant* or *itinerant vendor* means any person, firm or corporation, whether as owner, agent, consignee or employee, whether or not a resident of the city, who engages in a temporary business of selling and delivering goods, wares and merchandise within the city, and who in furtherance of such purpose, hires, leases, uses or occupies any building, structure, motor vehicle, tent, railroad boxcar, public room in any hotel, motel, lodginghouse, apartment, shop or any street, alley, or other place within the city, for the exhibition and sale of such goods, wares and merchandise, either privately or a public auction. The person, firm or corporation so engaged shall not be relieved from complying with the provisions of this Code merely by reason of associating temporarily with any local dealer, trader, merchant or auctioneer, or by conducting such transient business in connection with, as a part of, or in the same of any local dealer, trader, merchant or auctioneer.

*Under car services*. The following shall be considered under car services: front-end alignment, brakes, shocks, struts, and lube, oil and filter.

*Unimproved site* means:

A. A parcel of property that does not have utilities, culinary water, or sewer (where required) service into the parcel; or

B. A future phase or a remainder parcel in a platted subdivision that does not have utilities, culinary water, or sewer (where required) service into the phase or parcel.

*Unlicensed dog* means any dog for which the license for the current year has not been paid, or to which the tag provided in this Code is not attached when the dog is outside the owner's property.

*UPDES* means Utah Pollution Discharge Elimination System.

*Use*.

A. The term "use" means the exercise of any right or power over taxable energy incident to the ownership of the leasing of the taxable energy.

B. The term "use" does not include the sale, display, demonstration or trial of the taxable energy in the regular course of business and held for resale.

*Use district* means those districts established by PCC title 10.

*User charges* means connection and other charges as well as monthly fees assessed to users of the city-operated secondary irrigation water system.

*Utah OHV education certificate* means an OHV operator's license issued by the state to OHV operators eight years of age and older that have successfully completed a prescribed course of instruction on OHV use. Note: There are different certificates for each type of OHV (motorcycle, ATV, snowmobile, etc.).

*Utility pole* means a pole used to support overhead power lines and various other public utilities, such as cable, fiber optic cable, and related equipment such as transformers and street lights. Utility poles can be made of wood, metal, concrete, or composites like fiberglass; but finished to give the appearance of wood or rust. Exception: Flag poles, street sign poles, and street light poles do not need to have the wood or rust finish.

*Utilizing a public road* means using any portion of a public road or the public right-of-way for an athletic event, entertainment event, political event, or special event.

*Vehicle* means every device in, on or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively on stationary rails or tracks.

*Vicious animal* means a dog or animal if it presents an unacceptably high risk of serious injury. A dog that has bitten without provocation or a dog that has known propensity to attack or bite.

*Viewing room* means the room, booth, or area where a customer of a sexually oriented business would ordinarily be positioned while watching a film, videocassette, or other video reproduction.

*Violation* means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) of the National Flood Insurance Regulations is presumed to be in violation until such time as that documentation is provided.

*Waiver* means the written form provided to an applicant by the city wherein the applicant agrees that the city may obtain a name/date of birth BCI national background check on the applicant for licensing purposes under PCC chapter 3-8, and which contains the applicant's notarized signature.

*Walking advertisers* means persons carrying or wearing portable advertising signs or costumes designed to advertise a business, event sale or season/holiday. The advertiser must remain on private property and not block the view or path or disrupt motorized or nonmotorized vehicles, or pedestrians.

*Wall-mounted antenna* means an antenna or series of individual antennas mounted against the vertical wall of a building.

*Wall sign* means a sign that is either painted on a wall or its facing, or is painted in such a way that it gives the visual appearance of being painted on a wall or facing by not having a frame or separation from the wall or facing.

*Water* means irrigation water furnished by means of the city-operated secondary irrigation water system, unless the context clearly otherwise indicates, as in provisions prohibiting intermingling of culinary and irrigation water.

*Water meters* means meters installed by the city to measure usage of water from the city-operated secondary irrigation water system.

*Water purveyor* means the city and the person designated to be in charge of the city's water department and who is invested with the authority and responsibility for the implementation of effective cross connection control program and for the enforcement provisions of PCC chapter 8-3.

*Water service* means the provision of secondary water by means of the city-operated secondary irrigation water system.

*Water surface elevation* means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

*Water user* means any user or other recipient of secondary water delivered by the system.

*Weeds* mean and include any vegetation commonly referred to as a weed, or which shall have been designated a noxious weed by the state commissioner of agriculture.

*Wellhead* means the upper terminal of a well, including adapters, ports, seals, valves and other attachments.

*Wholesale* means a sale of tangible personal property by wholesalers to retail merchants, jobbers, dealers or other wholesalers for resale, and does not include a sale by wholesalers or retailers to users or consumers not for resale, except as otherwise specified.

*Wholesaler* means a person doing a regularly organized wholesale or jobbing business and selling to retail merchants, jobbers, dealers or other wholesalers, for the purpose of resale.

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

*Wildland urban interface area* means the line, area, or zone where structures or other human development meet or intermingle with undeveloped wildland or land being used for an agricultural purpose.

*Wildlife* means a wild animal, especially animals living in a natural, undomesticated state.

*Willfully* means simply a purpose or willingness to commit the act or to omit an act referred to herein.

*Wind sign* means a sign consisting of one or more banners, flags, pennants, ribbons, spinners, streamers or captive balloons, or other objects or material fastened in such a manner as to move upon being subjected to pressure by the wind or breeze.

*Window sign* means a sign which is painted on, applied or attached to, or located within three feet of the interior of a window, which sign can be seen through the window from the exterior of the structure.

*Written* or *in writing* means and may include printing and any other mode of representing words and letters, but when the written signature of any person is required by law to any official or public writing or bond, it shall be in the proper handwriting of such person, or in case such person is unable to write, by such person's proper mark.

*Yard* means a space on a lot, other than a court, unoccupied and unobstructed by buildings and/or structures from the ground upward, except as otherwise provided herein.

*Zone* means a portion of the incorporated area of the city shown on the approved zoning map and associated with PCC title 10 and given a formal zoning district designation.

(Code 1977, §§ 1-005(part), 8-202, 10-241B, 10-331, 10-322, 10-411, 10-431, 10-153, 11-322; Code 1998, §§ 1-3-2(part), 3-1-1, 3-1-4(part), 3-2A-2, 3-2B-2, 3-3-1, 3-4-2(part), 3-5-1, 3-7-4(part), 3-8-3, 3-9-2, 3-10-1, 4-1-1-1, 4-1-2-1, 4-2-1, 4-3-1, 4-5-1, 4-7-, 4-8-1, 4-9-1(part), 5-1-5, 5-4-2(part), 5-5-2(part), 5-7-2, 5-9-2, 6-1-2, 6-2-7(part), 7-1-8(part), 7-4-2, 7-7-9(part), 7-8-2, 8-1-1B, 8-1A-2, 8-2-10(part), 8-3-2, 8-4-3, 8-5-3, 9-1-1(part), 9-1A-8(part), 9-2-1(part), 9-3-1(part), 9-4-1(part), 9-6-2, 9-7-1(part), 10-1-4, 10-1-6(part), 10-3-7(part), 10-5-2(part), 10-8-5(part), 10-8-7(part), 10-8-8(part), 10-12-2, 10-13-2, 10-15-1, 10-16-3, 11-1-3, 11-5-10; Ord. No. 88-1, 4-12-1989; Ord. No. 14-300, 1-23-1991; Zon. Ord., 5-8-1991; Ord. No. 94-1, 1-25-1994; Ord. of 2-16-1994; Ord. No. 9-531, 2-28-1995, eff. 3-28-1995; Ord. of 4-9-1996; Min. of 8-28-1996; Ord. No. 97-003, 2-11-1997; Ord. No. 97-006, 6-17-1997; Ord. of 6-17-1997; Ord. No. 14-160, 10-14-1997; Ord. No. 98-011, 6-9-1998; Ord. No. 98-019; Ord. No. 98-026, 11-10-1998; Ord. No. 011-99, 4-13-1999; Ord. No. 026-99, 11-9-1999; Ord. No. 001-01, 2-27-2001; Ord. No. 003-01, 2-27-2001; Ord. No. 006-01; Ord. No. 007-2002, 5-14-2002; Ord. No. 011-2002; Ord. No. 011-2004, 3-23-2004; Ord. No. 033-2004, 11-23-2004; Ord. No. 004-2005, 1-18-2005; Ord. No. 006-2005, 2-8-2005; Ord. No. 010-2004, 7-26-2005; Ord. No. 014-2005; Ord. of 12-13-2005;

Ord. No. 002-2006, 1-10-2006; Ord. No. 006-2006, 6-27-2006; Ord. No. 013-2006, 11-14-2006; Ord. No. 001-2007, 1-9-2007; Ord. No. 002-2007, 1-9-2007; Ord. No. 004-2007, 1-23-2007; Ord. No. 018-2007, 9-25-2007; Ord. of 9-25-2007; Ord. No. 003-2008, 2-26-2008; Ord. No. 004-2008, 3-13-2008; Ord. No. 012-2008, 9-23-2008; Ord. No. 014-2008, 11-11-2008; Ord. No. 015-2008, 11-11-2008; Ord. No. 002-2009, 5-26-2009; Ord. No. 003-2009, 5-26-2009; Ord. No. 005-2009, 9-22-2009; Ord. No. 008-2009, 10-13-2009; Ord. No. 011-2009, 12-8-2009; Ord. No. 004-2010, 4-13-2010; Ord. No. 007-2010, 8-10-2010; Ord. No. 008-2010, 8-10-2010; Ord. No. 009-2010; Ord. No. 002-2011, 4-26-2011; Ord. No. 003-2011, 3-22-2011; Ord. No. 006-2011, 7-26-2011; Ord. No. 008-2011, 10-11-2011; Ord. No. 011-2011, 11-8-2011; Ord. of 3-3-2012; Ord. No. 004-2012, 3-13-2012; Ord. No. 001-2012, 4-10-2012; Ord. No. 007-2012, 5-8-2012; Ord. No. 014-2012, 9-25-2012; Ord. No. 12-233; Ord. No. 002-2013, 4-9-2013; Ord. No. 005-2013, 7-1-2013; Ord. No. 004-2013, 7-9-2013; Ord. No. 001-2013, 8-6-2013; Ord. No. 006-2013, 9-10-2013; Ord. No. 013-2013, 9-10-2013; Ord. No. 019-2013, 10-8-2013; Ord. No. 015-2013, 11-7-2013; Ord. No. 002-2014, 6-24-2014; Ord. No. 003-2014, 7-8-2014; Ord. No. 004-2014; Ord. No. 005-2014, 9-23-2014; Ord. No. 008-2014, 12-9-2014; Ord. No. 009-2014, 1-12-2015; Ord. No. 2015-015, 6-9-2015; Ord. No. 2015-016, 7-14-2015; Ord. No. 2015-006, 12-10-2015; Ord. No. 2016-018, 7-26-2016; Ord. No. 003-2016, 7-29-2016; Ord. No. 2016-019, 8-9-2016; Ord. No. 2016-020, 8-23-2016; Ord. No. 023-2016, 10-11-2016; Ord. No. 024-2016, 11-1-2016; Ord. No. 2017-006, 4-11-2017; Ord. No. 2017-007, 4-25-2017; Ord. No. 2018-004, 4-24-2018; Ord. No. 2018-011, 10-23-2018; Ord. No. 2018-014, 10-23-2018; Ord. No. 2018-016, 12-11-2018; Ord. No. 2019-003, 2-12-2019; Ord. No. 2019-008, att.(8-5-3), 3-26-2019; Ord. No. 2019-017, att.(8-5-3), 10-8-2019; Ord. No. 2019-018, 10-22-2019; Ord. No. 2019-020, 10-22-2019; Ord. No. 2019-024, 11-12-2019; Ord. No. 2020-001, 2-19-2020; Ord. No. 2020-002, 2-19-2020; Ord. No. 2020-003, 2-19-2020; Ord. No. 2021-004, 4-21-2021; Ord. No. 2021-011, 7-21-2021)

### 1-3-3 Catchlines

The catchlines of the several sections of this Code are intended as mere catchwords to indicate the content of the section and shall not be deemed or taken to be titles of such sections, nor be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any division or section hereof, nor unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or re-enacted.

(Code 1977, § 1-006; Code 1998, § 1-3-3)

## CHAPTER 1-4 GENERAL PENALTY

1-4-1 Sentencing
1-4-2 Offenses Designated; Classified

### 1-4-1 Sentencing

A. *Penalty for violation of ordinance*. Unless otherwise specifically authorized by

statute, the city council penalty for the violation of any city ordinance shall be a fine not to exceed the maximum Class B misdemeanor fine under U.C.A. 1953, § 76-3-301, or by a term of imprisonment up to six months, or by both the fine and term of imprisonment. The city council may prescribe a minimum penalty for the violation of any city ordinance and may impose a civil penalty for the unauthorized use of city property, including, but not limited to, the use of parks, streets, and other public grounds or equipment. Rules of civil procedure shall be substantially followed.

B. *Term of imprisonment for misdemeanors*. A person who has been convicted of a misdemeanor may be sentenced to imprisonment as follows:

1. In the case of a Class B misdemeanor, for a term not exceeding six months;
2. In the case of a Class C misdemeanor, for a term not exceeding 90 days.

C. *Infractions*.

1. A person convicted of an infraction may not be imprisoned but may be subject to a fine, forfeiture and disqualification, or any combination.
2. Whenever a person is convicted of an infraction and no punishment is specified, the person may be fined as for a Class C misdemeanor.

D. *Fines of persons*. A person convicted of an offense may, in addition to any term of imprisonment imposed, be sentenced to pay a fine not to exceed:

1. $1,000.00 when the conviction is of a Class B misdemeanor conviction; and
2. $750.00 when the conviction is of a Class C misdemeanor conviction or infraction conviction.

E. *Fines of corporations*. The sentence to pay a fine, when imposed upon a corporation, association, partnership or governmental instrumentality for an offense defined in this Code, or the ordinances of the city, or for an offense defined outside of this Code over which the city has jurisdiction, for which no special corporate fine is specified, shall be to pay an amount fixed by the court, not exceeding:

1. $5,000.00 when the conviction is for a Class B misdemeanor conviction; and
2. $1,000.00 when the conviction is for a Class C misdemeanor conviction or for an infraction conviction.

(Code 1977, §§ 1-322, 1-323, 1-331A, 3-332; Code 1998, § 1-4-1)

**State law references**—Penalties for ordinance violations, U.C.A. 1953, § 10-3-703; terms of imprisonment for misdemeanors, U.C.A. 1953, § 76-3-204; infraction fines, U.C.A. 1953, § 76-3-205; fines on individuals, U.C.A. 1953, § 76-3-301; fines on corporations, U.C.A. 1953, § 76-3-302 et seq.

## 1-4-2 Offenses Designated; Classified

A. *Sentencing in accordance with chapter*.

1. A person adjudged guilty of an offense under this Code or the ordinances of the city shall be sentenced in accordance with the provisions of this chapter.
2. Ordinances enacted after the effective date of this Code which involve an offense should be classified for sentencing purposes in accordance with this chapter, unless otherwise expressly provided.

B. *Designation of offenses*. Offenses are designated as misdemeanors or infractions.

C. *Misdemeanors classified*.

1. Misdemeanors are classified into two categories:
    a. Class B misdemeanors;
    b. Class C misdemeanors.
2. An offense designated as a misdemeanor or any act prohibited or declared to be unlawful in this Code or any ordinance of the city when no other specification as to punishment or category is made, is a Class B misdemeanor.
3. Notwithstanding subsection C.2 of this section, an offense designated as a misdemeanor or any act prohibited or declared to be unlawful in PCC titles 10 and 11, when no other specifications to punishment or category is made, is a Class C misdemeanor.

D. *Infractions*.

1. Infractions are not classified.
2. Any offense which is made an infraction in this Code or other ordinances of the city, or which is expressly designated an infraction and any offense designated by this Code or other ordinances of the city which is not designated as a misdemeanor and for which no penalty is specified is an infraction.

E. *Continuing violation*. In all instances where the violation of this Code or any

ordinance hereinafter enacted is a continuing violation, a separate offense shall be deemed committed on each day during or on which the violation occurs or continues to occur.

(Code 1977, §§ 1-311--1-315; Code 1998, § 1-4-2; Ord. No. 004-2007, 1-23-2007)

## CHAPTER 1-5 OFFICIAL AND CORPORATE PROVISIONS

1-5-1 City Seal

### 1-5-1 City Seal

The city seal shall be 1 7/8 inches in diameter, the impression of which represents a beehive placed upon a platform, surrounded with bees, with the inscription, "Corporate Seal of the City of Providence," which is hereby declared to be and hereafter shall be the corporate seal of the city.

(Code 1977, § 1-010; Code 1998, § 1-5-1)

**State law reference**—Seal authorized, U.C.A. 1953, § 10-1-202.

## CHAPTER 1-6 MAYOR AND CITY COUNCIL

1-6-1 Form Of Government
1-6-2 Eligibility And Residency Requirements
1-6-3 Terms; Vacancies
1-6-4 Mayor In Six-Member Council
1-6-5 Mayor Pro Tempore
1-6-6 Council In Six-Member Council
1-6-7 Meetings; Procedure And Conduct
1-6-8 Ordinances And Resolutions; Procedures

### 1-6-1 Form Of Government

The city operates under the six-member form of government.

(Code 1998, § 1-6-1)

**State law reference**—Six-member council form of government, U.C.A. 1953, § 10-3b-301 et seq.

### 1-6-2 Eligibility And Residency Requirements

Members of the city council must meet the eligibility and residency requirements pursuant to U.C.A. 1953, title 10, ch. 3 (U.C.A. 1953, § 10-3-201 et seq.) and U.C.A. 1953, title 20A.

(Code 1998, § 1-6-2)

## 1-6-3 Terms; Vacancies

A. *Terms*. See U.C.A. 1953, § 10-3-205.

B. *Vacancies*. Mayoral or council vacancies shall be filled as provided in U.C.A. 1953, § 20A-1-510.

(Code 1998, § 1-6-3)

## 1-6-4 Mayor In Six-Member Council

The mayor:

A. Performs all duties prescribed by law, resolution or ordinance;

B. Ensures that all the laws, ordinances and resolutions are faithfully executed and observed;

C. Reports to the city council the condition of the city and recommend for city council consideration any measures that the mayor considers to be in the best interests of the city;

D. When necessary, calls on the residents of the city over the age of 21 years to assist in enforcing the laws of the state and ordinances of the city;

E. Appoints, with the advice and consent of the city council, persons to fill vacancies on commissions or committees of the city;

F. Signs all city ordinances and resolutions, and the mayor is further hereby authorized to sign officially for and on behalf of the city to all deeds, bonds, bills, notes, contracts, leases and other writings to which the city is a party, when so directed by the city council.

(Code 1998, § 1-6-4; Ord. No. 2019-013, att.(1-6-4), 8-13-2019)

**State law reference**—Mayor generally U.C.A. 1953, § 10-3b-302(1).

## 1-6-5 Mayor Pro Tempore

See U.C.A. 1953, § 10-3b-302(2).

(Code 1998, § 1-6-5)

## 1-6-6 Council In Six-Member Council

See U.C.A. 1953, §§ 10-3b-105, 10-3b-303.

(Code 1998, § 1-6-6; Ord. No. 2019-013, att.(1-6-6), 8-13-2019)

## 1-6-7 Meetings; Procedure And Conduct

A. *Regular meetings*.

1. The city council shall hold one regular meeting which shall be held on the third Wednesday of each month at the city office.
2. The meeting shall begin no earlier than 5:00 p.m. and no later than 7:00 p.m.
3. The city council may by vote provide for a different time and place for holding a meeting, if a majority of those voting deem it to be in the best interest of the citizens.

B. *City council bylaws*. The city council shall adopt rules of order and procedure to govern a public meeting of the city council. These rules of order shall be known as the city council bylaws.

(Code 1998, § 1-6-7)

**State law references**—One council meeting per month required, U.C.A. 1953, § 10-3-502(1)(b); who may call a special meeting, U.C.A. 1953, § 10-3-502(2)(a); public meeting requirements, U.C.A. 1953, § 54-2-201 et seq.; quorum defined, U.C.A. 1953, § 10-3-504; electronic meetings, U.C.A. 1953, § 52-4-207.

## 1-6-8 Ordinances And Resolutions; Procedures

See U.C.A. 1953, § 10-3-701 et seq.

(Code 1998, § 1-6-8)

# CHAPTER 1-7 OFFICERS AND EMPLOYEES

1-7-1 Creating Offices; Filling Vacancies
1-7-2 Compensation
1-7-3 Bond Requirements
1-7-4 Oaths
1-7-5 Official Neglect And Misconduct
1-7-6 City Recorder, City Treasurer And City Manager
1-7-7 City Attorney
1-7-8 Duties Of All Officers

## 1-7-1 Creating Offices; Filling Vacancies

See U.C.A. 1953, § 10-3b-105(2)(d).

(Code 1998, § 1-7-1; Ord. No. 2019-013, att.(1-7-1), 8-13-2019; Ord. No. 2019-015, § 1-7-1, 8-27-2019)

## 1-7-2 Compensation

A. *Established*. The salary of the officers and employees of the city shall be paid in the amount and at such times as is established by resolution of the city council.

B. *Serving two or more positions*. Whenever any person serves in two or more positions either as officers or employees of the city, unless otherwise specifically provided in the employment agreement, by ordinance or by resolution, that person shall receive the salary or compensation of the office or employment paying the greater amount.

C. *Reimbursement for travel expenses*. In addition to all other compensation or salaries, any officer or employee of the city may receive, following the submission to the city recorder of a claim, travel expenses and per diem established by the state department of finance for expense actually incurred by the person for attending any meeting, conference, seminar or training session, provided attendance shall have been approved according to the city's personnel policy manual.

(Code 1977, §§ 3-552--3-554; Code 1998, § 1-7-2; Ord. No. 2019-015, § 1-7-2, 8-27-2019)

## 1-7-3 Bond Requirements

A. *Premium paid by city*. See U.C.A. 1953, § 10-3-831(3).

B. *Bond or theft or crime insurance amounts*. See U.C.A. 1953, § 10-3-831(4).

C. *Treasurer's bond/theft or crime insurance*. See U.C.A. 1953, § 10-3-831(2)(b), (c).

(Code 1977, §§ 3-521B, 3-521D; Code 1998, § 1-7-3; Ord. No. 2019-015, § 1-7-3, 8-27-2019)

## 1-7-4 Oaths

See U.C.A. 1953, §§ 10-3-827—10-3-828.

(Code 1977, §§ 3-531, 3-532; Code 1998, § 1-7-4; Ord. No. 2019-015, § 1-7-4, 8-27-2019)

## 1-7-5 Official Neglect And Misconduct

See U.C.A. 1953, § 10-3-826.

(Code 1998, § 1-7-5; Ord. No. 2019-015, § 1-7-5, 8-27-2019)

## 1-7-6 City Recorder, City Treasurer And City Manager

See U.C.A. 1953, §§ 10-3-916, 10-3b-303.

(Code 1998, § 1-7-6; Ord. No. 012-01, 12-11-2001; Ord. No. 2019-015, § 1-7-6, 8-27-2019)

### 1-7-7 City Attorney

See U.C.A. 1953, § 10-3-928.

(Code 1998, § 1-7-7; Ord. No. 2019-015, § 1-7-7, 8-27-2019)

### 1-7-8 Duties Of All Officers

It shall be the duty of all officers of the city to:

A. *Documents to successor*. Deliver to their successor promptly after the change of office all records, documents and property which belong to the city.

B. *Deliver funds*. Deliver to the city treasurer promptly after receipt of such funds, all funds of the city which the officer receives.

C. *Sign required records*. Sign within a reasonable time all papers, documents and records received by the officer which requires the officer's signature.

D. *Give receipts*. Give receipts on forms provided by the city recorder for all sums of money received, collected or paid them or their assistants.

(Code 1977, § 3-361; Code 1998, § 1-7-8; Ord. No. 2019-015, § 1-7-8, 8-27-2019)

## CHAPTER 1-8 MUNICIPAL ELECTIONS

1-8-1 Conduct Of Municipal Elections

### 1-8-1 Conduct Of Municipal Elections

All elections of city officers and other elections conducted within the city shall be in accordance with the Utah Election Code, as set forth in U.C.A. 1953, title 20A.

(Code 1998, § 1-8-1)

## CHAPTER 1-9 ADMINISTRATIVE HEARINGS

**Editor's note**--Chapter 1-9, pertaining to administrative hearings, was repealed by Ord. No. 004-2007, adopted Jan. 23, 2007.

## CHAPTER 1-9A ADMINISTRATIVE REMEDIES

1-9A-1 General
1-9A-2 Application Of Administrative Remedies By The City
1-9A-3 Administrative Remedies By A Person, Business, Or Other Entity

1-9A-4 Conflict

## 1-9A-1 General

Administrative remedies are intended as actions that may be applied to help ensure compliance with city ordinances, resolutions, regulations or any other city, state or federal requirements at a lower or administrative level to avoid costly or perhaps unneeded legal action.

A. Unless otherwise specifically provided for in any ordinance, resolution or other regulations of the city or any code adopted by reference, the city council, mayor or an officer of the city may seek administrative remedies, in accordance with this chapter, to ensure compliance with any ordinance, resolution, or regulations of the city, or any other city, state or federal requirement, by any person, business or other legal entity.

B. Similarly, any person, business, or other legal entity may seek administrative remedies from the city, also in accordance with this chapter.

C. For the purposes of this chapter, an officer of the city is defined to be any of the following: mayor, city manager, city recorder, city treasurer, community development director, or public works director.

(Code 1998, § 1-9A-1; Ord. No. 009-01, 10-9-2001)

## 1-9A-2 Application Of Administrative Remedies By The City

Unless otherwise specifically provided in any ordinance or resolution of the city, the city may, upon notice to a person, business or other legal entity, apply any of the following administrative remedies to such person, business, or other legal entity if the person, business or legal entity is found to be in default on any matter relating to or business dealing with the city, or has otherwise failed to fulfill an obligation or commitment to the city, as listed in subsection B of this section.

A. *Administrative remedies*. The following administrative remedies may be applied by the city:

1. Refuse to accept or inspect, deny, withhold, or otherwise stop the processing of any permit, license, certificate, approval, order, application, or any similar authorization or contract normally issued by the municipality to such person, business or other legal entity.

2. Direct a stop work order for any construction in progress by such person, business or other legal entity involved.

3. Decline to award any contract or otherwise do business of any nature with such person, business or other legal entity.

B. *Default*. A person, business, or other legal entity may be considered in default with the city for any of the following:

1. Delinquency in the payment of a utility bill or any other money owed to the city.
2. Nonperformance of required construction of repairs on original infrastructure improvements or on guaranteed infrastructure improvements that have been dedicated or are to be dedicated to the city in accordance with agreed-upon development plans.
3. Constructing, occupying or otherwise using or allowing to be used, a facility, home, dwelling or other structure or development in a manner contrary to agreed-upon development plans, approved final plats, or the city's land use and/or other applicable resolutions, regulations or ordinances. This shall include failure to comply with any applicable state and federal laws or regulations.
4. Failure to properly license and keep current any business license, home occupation license, home business license, or other license required in accordance with this Code.
5. Failure to comply with and fulfill all obligations related to an existing project, business, development or enterprise within the city, at the time any new application or request for any type of license, permit or approval is sought from the city.
6. Failure to maintain any city, state or federal license, professional or otherwise, required of a person, business or other legal entity to conduct any business or activity, whether existing or proposed.

The foregoing statement of defaults is not intended to be exclusive, but rather is intended to include and not be limited to the defaults listed above; it being the intention of the city to require all persons, business or other legal entities to be in compliance with all applicable city, state and federal ordinances, laws, resolutions and other regulations at the time the person, business or other legal entity may apply for or request, initial or subsequent, permits, licenses, certificates, approvals, orders or similar authorizations from the city. Any officer of the city is granted authority to determine whether or not any administrative remedy should apply, which one to apply and to apply it, subject to the following provisions of this chapter.

C. *Procedure*. Following a determination by the governing body or a city officer that a person, business, or other legal entity is in default with the city, the city manager, city administrator or city recorder shall notify the party in default by giving notice to such person, business or other legal entity which shall include the following:

1. That the city has determined the party to be in default and the reasons for

such a finding;

2. The administrative remedies which have been or may be applied;
3. What actions the party must take to no longer be considered in default and thereby have resolved any applied administrative remedies; and
4. The party's rights to administrative remedies under this chapter.

Following such notice, the city shall indicate on any applicable permit, license, application, or contract a notice of the default position of the party involved and the required resolution of any such default position before any further action will be taken by the city on behalf of such person, business or other legal entity.

D. Applying administrative remedies by the city shall not be construed to mean that the city will not or cannot pursue other legal remedies including civil or criminal action, all remedies being alternative in nature.

E. The city may require reimbursement by the party involved for any costs and fees incurred by the city in applying administrative remedies under this chapter when those costs and fees are above and beyond the normal or customary costs and fees of processing and pursuing the actions involved. Costs and fees that could be charged and collected may include, but are not limited to, legal fees, administration costs, the costs of additional building inspections, collection costs, and the costs and fees incurred for any other work done, services performed and materials purchased by city employees or those hired by the city to repair, complete or correct infrastructure work, or to remedy any other defaults.

(Code 1998, § 1-9A-2; Ord. No. 009-01, 10-9-2001)

**1-9A-3 Administrative Remedies By A Person, Business, Or Other Entity**

A. *Those who can request administrative remedies*. Unless otherwise specifically provided in any ordinance, resolution or regulation of the city or any code adopted by reference; a hearing before the governing body may be requested by any person, business or other legal entity who receives a notice as provided in PCC 1-9A-2.C, or who is otherwise denied or refused a permit or license or other privilege as herein provided, normally offered by the city, by any officer of the city; or whose permit, approval or license is revoked, restricted, qualified, or limited from that for which it was first issued.

B. *Form of request*. The request for hearing must be made in writing to the mayor, city recorder, or city manager and must be made within 30 calendar days following the date notice of default or notice denying, refusing, qualifying, restricting or revoking the license, permit or other approval is mailed by the city to the person, business or other legal entity, at the address as it appears on the application, license or other relevant document.

C. *Procedure*.

1. Following receipt of a request for hearing, the governing body shall inform the person requesting hearing of the time and place the hearing is to be held.
2. At the hearing, the aggrieved party shall have the right to hear and examine any witnesses the city may produce to support its decision and to present the aggrieved party's own evidence in support of the aggrieved party's contention.
3. The governing body shall, within ten days following the conclusion of the hearing, in writing, inform the person who requested the hearing of the decision of the governing body.

D. *Not additional remedy*. This part shall not be construed so as to afford any aggrieved party more than one hearing before the governing body nor shall the hearing provided in this part apply to any criminal complaint or proceeding.

(Code 1998, § 1-9A-3; Ord. No. 009-01, 10-9-2001)

**1-9A-4 Conflict**

To the extent of any conflict between this chapter and any other city ordinance and/or regulation, the provisions of this chapter shall be controlling.

(Code 1998, § 1-9A-4; Ord. No. 009-01, 10-9-2001)

**CHAPTER 1-10 RECORDS ACCESS AND MANAGEMENT**

1-10-1 Scope; Applicability
1-10-2 Compliance; Records Officer
1-10-3 Classification Of Records
1-10-4 City Policy
1-10-5 Request For Records
1-10-6 Response By City
1-10-7 Appeal

**State law reference**—Government Records Access and Management Act, U.C.A. 1953, § 63G-2-101 et seq.

**1-10-1 Scope; Applicability**

A. *Purpose*. The purpose of the Government Records Access and Management Act (GRAMA) (U.C.A. 1953, § 63G-2-101 et seq.) is to standardize both records access and management.

B. *Intent*. The intent of GRAMA is to make available to the public all of the records of

government possible while protecting the privacy rights of individuals.

C. *Records availability*. Most records of the city will be public and available at reasonable times and places for inspection and copying.

D. *Criminal sanctions*. There are possible criminal sanctions for an individual who wrongly refuses access to a record and for an individual who wrongly discloses a properly classified record.

(Code 1998, § 1-10-1; Res. No. 96-003, 2-13-1996)

**1-10-2 Compliance; Records Officer**

The city will comply with GRAMA. The city recorder is appointed as the city records officer and shall work with the state archives in the care, maintenance, scheduling, designation, classification, disposal and preservation of city records.

(Code 1998, § 1-10-2; Res. No. 96-003, 2-13-1996)

**1-10-3 Classification Of Records**

The terms "designation" and "classification" are jargon which refer to the act of placing individual records or records series in one of four classifications; public, private, controlled, or protected. The terms "private," "controlled" and "protected" are terms of art which refer to specific classification possibilities. Most records must be public. Some records must be classified as private. These include records about a person's welfare benefits, medical benefits, library records, employee's home address, social security number and marital status. This list is not dispositive. Before any record is disclosed, the records officer should be consulted to ensure that privacy rights are maintained.

(Code 1998, § 1-10-3; Res. No. 96-003, 2-13-1996)

**1-10-4 City Policy**

A. *Hours of inspection*. The records of the city shall be open to inspection by the public during regular business hours, except as is herein provided.

B. *Charge for copies*. Any public record of the city may be copied or electronically reproduced for any member of the public on payment to the city recorder of the charges set forth by resolution of the city council.

C. *Elected officials; inspection rights*. Any elected official of the city shall during regular business hours have the right to inspect the books, records and papers of the city.

(Code 1977, § 3-344; Code 1998, § 1-10-4)

## 1-10-5 Request For Records

A. *Information required*. A person making a request for a record must furnish the city with a written request containing the person's name, mailing address, daytime telephone number, if available, and a description of the records request that identifies the record with reasonable specificity.

B. *Public benefit*. Any person who requests a record to obtain information for a story or report for publication or broadcast to the general public is presumed to be acting to benefit the public rather than a person.

(Code 1998, § 1-10-5; Res. No. 96-003, 2-13-1996)

## 1-10-6 Response By City

A. *Time limitations*. As soon as reasonably possible, but no later than ten business days after receiving a written request, or five business days after receiving a written request if the requester demonstrates that expedited response to the record request benefits the public rather than the person, the city shall respond to the request by:

1. Approving the request and providing the record;
2. Denying the request;
3. Notifying the requester that it does not maintain the record and providing, if known, the name and address of the governmental entity that does maintain the record; or
4. Notifying the requester that because of one of the extraordinary circumstances allowed by law, it cannot immediately approve or deny the request.

B. *Failure to provide; denial*. If the city fails to provide the requested records or issues a denial within the specified time period, that failure is considered the equivalent of a determination denying access to the records.

(Code 1998, § 1-10-6; Res. No. 96-003, 2-13-1996)

**State law reference**—Time for responding to records requests, U.C.A. 1953, § 63G-2-204.

## 1-10-7 Appeal

GRAMA contains an appeals process for those wishing to either appeal a classification decision or an access decision.

(Code 1998, § 1-10-7; Res. No. 96-003, 2-13-1996)

**State law reference**—Appeals, U.C.A. 1953, § 63G-2-400.5 et seq.

## CHAPTER 1-11 FINANCIAL ADMINISTRATION

1-11-1 Financial Officer; Appointment
1-11-2 Expenditures Approved
1-11-3 Reports Required

### 1-11-1 Financial Officer; Appointment

The city recorder is hereby appointed as the city financial officer to perform the duties authorized by this chapter and U.C.A. 1953, § 10-6-158, as amended, and any provisions of the state code subsequently adopted which may supplement, amend or replace said section 10-6-158.

(Code 1998, § 1-11-1; Ord. No. 96-02, 9-24-1996)

### 1-11-2 Expenditures Approved

A. *Payroll; routine expenditures*. The financial officer is hereby authorized to approve the following:

1. *Payroll checks*. Payroll checks, if the checks are prepared in accordance with a salary schedule established in a personnel ordinance or resolution; or

2. *Routine expenditures*. Routine expenditures, such as utility bills, payroll-related expenses, supplies, materials and payments on city-approved contracts and capital expenditures which were referenced in the budget document and approved by an appropriation resolution adopted for the current fiscal year.

B. *Included expenditures*. The authorization contained in this chapter is intended to include, among other similar expenditures, all payroll checks for employees with previously approved and established salaries or hourly wages, payments to previously approved contract employees, payments for the deposit of federal and state social security and income tax withholdings, payments to the state retirement system for retirement contributions and disability insurance, payments for worker's compensation benefits, payments on existing bonded indebtedness, payments for the lease of vehicles and other equipment when such leases have been previously approved by the city council, payments for services received from other governmental agencies, such as payments to Logan City for sewer services, payments to the county service area for trash collection services, payments to the county auditor for county dispatch services, required payments to the state for court fines and inspection fees, payments, advances and

reimbursements for authorized travel, training and per diem expenses of city officers and employees, authorized by the city council.

(Code 1998, § 1-11-2; Ord. No. 96-02, 9-24-1996)

### 1-11-3 Reports Required

The financial officer shall provide reports at least quarterly to the mayor and city council regarding expenditures approved and payments made by the financial officer. The reports shall be in form designated by the mayor and city council.

(Code 1998, § 1-11-3; Ord. No. 96-02, 9-24-1996)

## CHAPTER 1-12 CITY MANAGER

1-12-0 Office Created
1-12-1 Appointment
1-12-2 Compensation
1-12-3 Powers And Duties
1-12-4 City Council Not To Interfere With Appointments Or Removals
1-12-5 Emergencies
1-12-6 Removal Of The City Manager
1-12-7 Bond
1-12-8 Vacancy
1-12-9 Other Ordinances

**State law reference**—Manager authorized, U.C.A. 1953, § 10-3b-303(1)(b)(iii).

### 1-12-0 Office Created

There is hereby created in and for the city the office of city manager. The city manager shall be appointed by the city council and shall serve at its pleasure.

(Code 1998, tit. 1, ch. 12, intro. ¶)

### 1-12-1 Appointment

The city manager shall be appointed by majority vote of the city council for an indefinite term. The manager shall be chosen by the city council solely on the basis of executive and administrative qualifications with special reference to actual experience in or knowledge of accepted practice in respect to the duties of the office hereinafter set forth. At the time of this appointment, the appointee need not be a resident of the city or state, but during the manager's tenure of office, shall reside within the county. No city councilmember shall receive such appointment as city manager during the term for which the city councilmember shall have served nor within one year after the expiration of the city councilmember's term.

(Code 1998, § 1-12-1; Ord. No. 2019-013, att.(1-12-1), 8-13-2019)

## 1-12-2 Compensation

The city manager shall receive such compensation as the city council shall fix from time to time by ordinance or resolution.

(Code 1998, § 1-12-2; Ord. No. 2019-013, att.(1-12-2), 8-13-2019)

## 1-12-3 Powers And Duties

The city manager shall be the chief administrative officer of the city overseeing the day-to-day operations of the city, and is responsible to the city council for the management of all city affairs placed in the manager's charge by or under this Code. The city manager shall:

A. Appoint and suspend or remove, promote and demote any and all officers and employees of the city, subject to all applicable personnel ordinances, rules and regulations, except for the positions of city recorder, city treasurer, city attorney, city engineer, justice court judge and which shall only be appointed, demoted or removed with the advice and consent of the city council;

B. Direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this charter or by law;

C. Attend all city council meetings unless excused by the mayor. The city manager shall have the right to take part in discussion but shall not vote;

D. See that all laws, provisions of this code and acts of the city council, subject to enforcement by the city manager or by officers subject to the manager's direction and supervision, are faithfully executed;

E. Prepare and submit the annual budget and capital program to the city council, and implement the final budget approved by the city council to achieve the goals of the city;

F. Submit to the city council and make available to the public a complete report on the finances and administrative activities of the city as of the end of each fiscal year;

G. To keep or cause to be kept a current inventory showing all real and personal property of the city and its location. The city manager shall be responsible for the care and custody of all such property, equipment, buildings, parks and all other city property which is not by law assigned to some other officer or body for care and control;

H. The city manager shall recommend to the city council for adoption such measures and ordinances necessary for the efficient management of administrative affairs;

I. Make such other reports as the city council may require concerning operations;

J. Keep the city council fully advised as to the financial condition and future needs of the city;

K. Make recommendations to the city council concerning the affairs of the city and facilitate the work of the city council in developing policy;

L. Provide staff support services for the mayor and city councilmembers;

M. Assist the city council to develop long term goals for the city and strategies to implement these goals;

N. Encourage and provide staff support for regional and intergovernmental cooperation;

O. Promote partnerships among city council, staff, and citizens in developing public policy and building a sense of community; and

P. Perform such other duties as are specified in this code or may be required by the city council.

(Code 1998, § 1-12-3; Ord. No. 2019-013, att.(1-12-3), 8-13-2019)

**1-12-4 City Council Not To Interfere With Appointments Or Removals**

Neither the city council nor any of its members shall direct or request the appointment of any person to, or removal from, office by the city manager or any of the manager's subordinates, or in any manner take part in the appointment or removal of officers and employees in the administrative services of the city. Except for the purpose of inquiry, the city council and its members shall deal with the administration solely through the city manager and neither the city council nor any member thereof shall give orders to any subordinates of the city manager, either publicly or privately.

(Code 1998, § 1-12-4; Ord. No. 2019-013, att.(1-12-4), 8-13-2019)

**1-12-5 Emergencies**

In case of accident, disaster, or other circumstance creating a public emergency, the city manager may award contracts and make purchases for the purpose of meeting said emergency; but the manager shall file promptly with city council a certificate showing such emergency and the necessity for such action, together with an itemized account of all expenditures.

(Code 1998, § 1-12-5; Ord. No. 2019-013, att.(1-12-5), 8-13-2019)

**1-12-6 Removal Of The City Manager**

The city council may remove the city manager at any time by a super majority vote of its

members which includes the mayor. If requested, a hearing shall be granted by the city council within 30 days following notice of removal. During the interim, the city council may suspend the manager from duty.

(Code 1998, § 1-12-6; Ord. No. 2019-013, att.(1-12-6), 8-13-2019)

### 1-12-7 Bond

In accordance with U.C.A. 1953, § 10-3-831(3), the city shall provide and pay for a fidelity bond and theft or crime insurance policy to cover the city manager.

(Code 1998, § 1-12-7; Ord. No. 2019-013, att.(1-12-7), 8-13-2019)

### 1-12-8 Vacancy

Any vacancy in the office of the city manager shall be filled within 60 days after the effective date of such vacancy.

(Code 1998, § 1-12-8; Ord. No. 2019-013, att.(1-12-8), 8-13-2019)

### 1-12-9 Other Ordinances

All ordinances of the city prescribing the duties of heads of departments shall remain in full force and effect except in so far as they conflict with the provisions of this chapter in which case the provisions of this chapter shall govern.

(Code 1998, § 1-12-9; Ord. No. 2019-013, att.(1-12-9), 8-13-2019

**TITLE 2 BOARDS AND COMMISSIONS**
CHAPTER 2-1 PLANNING COMMISSION
CHAPTER 2-2 BOARD OF ADJUSTMENT
CHAPTER 2-3 HISTORIC PRESERVATION COMMISSION
CHAPTER 2-4 LAND USE AUTHORITY
CHAPTER 2-5 APPEAL AUTHORITY

## CHAPTER 2-1 PLANNING COMMISSION

2-1-1 Planning Commission Created; Chair; Rules
2-1-2 Planning Commission Duties
2-1-3 Planning Commission Staff; Organization
2-1-4 Planning Commission Procedures

**State law reference**—Planning commission, U.C.A. 1953, § 10-9a-301 et seq.

### 2-1-1 Planning Commission Created; Chair; Rules

A. A city planning commission is hereby created. Said commission shall consist of five members, each of whom shall be a resident of the city and each of whom shall be appointed by the city council.

B. The terms of office for all members of the planning commission shall be three years and until their successors are appointed and qualified except where appointment to a shorter term is necessary to provide for staggered terms among commission members. Members may be removed with or without cause by a majority vote of the city council. On recommendation of the mayor and by majority vote of the council, standing members may be appointed to serve an additional term; however, no member may serve more than two consecutive terms.

C. The city council may appoint one or two alternate members of the planning commission, who shall serve in the absence of a member or members of the planning commission under rules established by the planning commission. Alternate members shall serve subject to subsections A and B of this section.

D. Members shall be selected without respect to political affiliation and shall serve without compensation except for payment of reasonable expenses.

E. The planning commission shall:

1. Elect from its membership a chair who shall serve a one-year term;
2. Pursuant to PCC title 2-1-4, adopt reasonable policies and rules for the transaction of business; and
3. Keep a public record of its proceedings.

F. When a regularly scheduled and noticed meeting of the planning commission does not occur because a quorum of the commission is not present, all action items scheduled to be heard on that date shall be continued to the next regularly scheduled meeting of the commission. Items originally scheduled to be heard at the meeting shall be automatically continued to the next regularly scheduled meeting the following month.

G. The planning commission will allow members to attend a regularly scheduled hearing/meeting or a special hearing/meeting by teleconference pursuant to the procedures outlined in the planning commission bylaws.

(Code 1998, § 2-1-1; Ord. No. 012-2003, 11-25-2003; Ord. No. 007-2004, 2-10-2004; Ord. No. 012-2006, 10-24-2006; Ord. No. 004-2007, 1-23-2007; Ord. No. 010-2011, 11-8-2011; Ord. No. 019-2016, 8-9-2016)

## 2-1-2 Planning Commission Duties

A. Except when otherwise expressly provided, the planning commission shall do the following:

1. Perform all functions and duties permitted or required of a planning commission by U.C.A. 1953, § 10-9a-302, as amended.

(Code 1998, § 2-1-2; Ord. No. 012-2003, 11-25-2003; Ord. No. 007-2004, 2-10-2004; Ord. No. 004-2007, 1-23-2007; Ord. No. 010-2011, 11-8-2011; Ord. No. 019-2016, 8-9-2016)

## 2-1-3 Planning Commission Staff; Organization

A. The planning commission shall have the following staff:

1. *Community development director*. The administrative director for the planning commission shall be the community development director or the community development director's designee.

    a. Duties of administrative director. The community development director shall be responsible for providing staff services to the planning commission as provided in this title and PCC titles 10 and 11 within the provision of budget authority appropriated by the city council.

2. *Secretary*. The secretary to the planning commission shall be the city recorder or designee.

    a. Duties. Subject to the direction of the community development director, the secretary shall in general attend to all

correspondence of the commission; attend all hearings/meetings of the commission (except when excused by the community development director with temporary services arranged); and generally perform or supervise all clerical work of the commission.

b. Under the direction of the city recorder, the secretary shall send out or cause to be published all notices required; compile all required records; maintain the necessary schedules, minutes, files and indexes.

(Code 1998, § 2-1-3; Ord. No. 012-2003, 11-25-2003; Ord. No. 007-2004, 2-10-2004; Ord. No. 016-2006, 11-14-2006; Ord. No. 004-2007, 1-23-2007; Ord. No. 010-2011, 11-8-2011; Ord. No. 019-2016, 8-9-2016)

### 2-1-4 Planning Commission Procedures

A. Subject to applicable state law and the provisions of this title, the planning commission may establish reasonable bylaws related to organization and procedure with respect to matters within its jurisdiction. Such bylaws shall be approved by the city council before taking effect.

(Code 1998, § 2-1-4; Ord. No. 012-2003, 11-25-2003; Ord. No. 007-2004, 2-10-2004; Ord. No. 004-2007, 1-23-2007; Ord. No. 010-2011, 11-8-2011; Ord. No. 019-2016, 8-9-2016)

## CHAPTER 2-2 BOARD OF ADJUSTMENT

**Editor's note**—Chapter 2-2 was repealed by Ordinance No. 004-2007, adopted January 23, 2007.

## CHAPTER 2-3 HISTORIC PRESERVATION COMMISSION

2-3-1 Purpose And Intent
2-3-2 Historic Preservation Commission
2-3-3 Commission Duties And Powers

### 2-3-1 Purpose And Intent

It is the purpose and intent of this chapter to:

A. Recognize that the heritage of the city is among its most valued and important assets.

B. Provide for the identification, preservation, protection, and enhancement of the historic, cultural, and prehistoric areas, sites, properties, and resources within the city.

(Code 1998, § 2-3-1; Ord. No. 002-2003, 3-11-2003)

## 2-3-2 Historic Preservation Commission

The city historic preservation commission is hereby established with the following provisions:

A. The commission shall consist of five members, with a demonstrated interest, competence or knowledge of historic preservation to be appointed by majority vote of the city council, upon recommendation from the mayor.

    1. Upon recommendation from the mayor and by majority vote of the city council, one or two alternate members may be appointed. The alternates will have input in all meetings and may receive assignments; but will only vote in the absence of a member of the commission.

B. The terms of office for all members of the historic preservation commission shall be three years and until their successors are appointed and qualified except where appointment to a shorter term is necessary to provide for staggered terms among commission members. Members may be removed with or without cause by a majority vote of the city council. On recommendation of the mayor and by majority vote of the council, standing members may be appointed to serve an additional term; however, no member may serve more than two consecutive terms.

C. To the extent available in the community, two commission members shall be professionals from the disciplines of history, architecture, architectural history, archeology, planning, urban planning, American studies, American civilization, cultural geography, or cultural anthropology.

D. The commission shall elect from its membership a vice chair, who shall serve as vice chair for one year and then shall serve as chair for one year. In the event there is neither a chair nor a vice chair, the commission shall elect a chair to serve for one year and a vice chair to serve as previously stated. The chair is a voting member of the commission.

E. The commission will meet at least twice a year and conduct business in accordance with the Open Public Meeting Laws of Utah. This includes public notification of meeting place, time and agenda items.

    1. *Electronic meetings*. Public meetings held electronically will be in accordance with Utah Code, Open and Public Meetings Act. Unless otherwise designated, the Providence City Office Building, 164 N. Gateway Dr. is the anchor location. At least one member of the historic preservation commission shall be present at the anchor location unless otherwise determined by the chair, in accordance with U.C.A. 1953, § 52-4-207(4), an electronic meeting may be held without an anchor location.

F. Written minutes of each commission meeting will be prepared and made available for public inspection.

(Code 1998, § 2-3-2; Ord. No. 002-2003, 3-11-2003)

**2-3-3 Commission Duties And Powers**

A. *Survey and inventory community historic resources*. The historic preservation commission shall conduct or cause to be conducted a survey of the historic, architectural, and archeological resources within the community.

B. *Review proposed nominations to the National Register of Historic Places*. The historic preservation commission considers a National Register nomination which is normally evaluated by professionals in a specific discipline and that discipline is not represented on the commission, the commission will seek expertise in this area before rendering its decision.

C. *Provide advice and information*.

1. The historic preservation commission shall act in an advisory role to other officials and departments of local government regarding the identification and protection of local historic and archeological resources.

2. The historic preservation commission shall work toward the continuing education of citizens regarding historic preservation and the community's history.

D. *Enforcement of state historic preservation laws*. The commission shall support the enforcement of all state laws relating to historic preservation. These include, but are not limited to, U.C.A. 1953, § 10-8-85.9 and U.C.A. 1953, title 9, ch. 8, (U.C.A. 1953, § 9-8-102 et seq.) as mended, regarding notification of the state historic preservation office of any known proposed action which will destroy or affect a site, building, or object owned by the state and included on or eligible for the state or National Registers.

E. *Enforcement of local historic preservation laws*. In the event of the enactment of any historic preservation laws by the city, the commission shall support the enforcement of such local historic preservation laws.

F. *Reviews*. The commission shall review all applications for and make recommendations regarding alterations, change of use, or new constructions involving historic sites and properties, subject to the following:

1. Such review and recommendations shall be binding only upon buildings and properties which are listed on a locally designated site's register; and

2. Any reviews and recommendations must be compatible with the current United States Secretary of the Interiors Standards for Rehabilitation

Guidelines for Rehabilitating Historic Buildings.

G. *Preservation of personal and community stories and traditions*. The commission may preserve personal and community stories and traditions in written form, photos, recordings, video, and other media or methods of preserving activities and information of historical interest. Methods of preserving activities of historical interest include, but are not limited to, participation in city celebrations, dinners, quilt shows, art displays, pageants, etc.

H. *Powers*. The commission shall have those powers necessary and reasonable for the carrying out of its duties.

(Code 1998, § 2-3-3; Ord. No. 002-2003, 3-11-2003)

## CHAPTER 2-4 LAND USE AUTHORITY

2-4-1 Established
2-4-2 Organization
2-4-3 Duties
2-4-4 Electronic Meetings

### 2-4-1 Established

There is created a land use authority which shall consist of the planning commission for all subdivisions; and a body, administrative land use, to include the community development director, public works director, and city engineer for all other land use applications.

(Code 1998, § 2-4-1; Ord. No. 004-2007, 1-23-2007)

### 2-4-2 Organization

The planning commission shall appoint a chairperson and the community development director shall serve as the chairperson of their respective land use authorities. Public meetings and hearings of the authority shall be held at the call of the chairperson.

(Code 1998, § 2-4-2; Ord. No. 004-2007, 1-23-2007)

### 2-4-3 Duties

The land use authority shall be responsible to act upon land use applications as assigned above.

(Code 1998, § 2-4-3; Ord. No. 004-2007, 1-23-2007)

### 2-4-4 Electronic Meetings

Public meetings held electronically will be in accordance with the Open and Public

Meetings Act (U.C.A. 1953, § 52-4-101 et seq.). Unless otherwise designated, the Providence City Office Building, 164 N. Gateway Dr. is the anchor location. At least one member of the land use authority shall be present at the anchor location unless otherwise determined by the chair, in accordance with U.C.A. 1953, § 52-4-207(4), an electronic meeting may be held without an anchor location.

(Code 1998, § 2-4-4; Ord. No. 004-2007, 1-23-2007)

## CHAPTER 2-5 APPEAL AUTHORITY

2-5-1 Appeal Authority
2-5-2 Appointment Of Appeal Authority
2-5-3 Appealing Land Use Authority's Decision
2-5-4 Variances

### 2-5-1 Appeal Authority

The authority to hear requests for variances from the terms of the land use ordinances and appeals from decisions applying the land use ordinances shall be vested in the city administrative appeals hearing officer.

(Code 1998, § 2-5-1; Ord. No. 004-2007, 1-23-2007; Ord. No. 009-2013, 9-13-2013; Ord. No. 017-2021, att.(2-5-1), 10-20-2021)

### 2-5-2 Appointment Of Appeal Authority

The mayor shall appoint an administrative appeals hearing officer with the advice and consent of the city council. The administrative appeals hearing officer will serve until a replacement is appointed.

A. With the advice and consent of the city council, the mayor may appoint separate administrative appeals hearing officers; one to hear appeals and one to hear variances.

(Code 1998, § 2-5-2; Ord. No. 004-2007, 1-23-2007; Ord. No. 009-2013, 9-13-2013; Ord. No. 017-2021, att.(2-5-2), 10-20-2021)

### 2-5-3 Appealing Land Use Authority's Decision

An applicant, a board or officer of the city, or any person adversely affected by the land use authority's decision applying a land use ordinance may, within the time period provided in subsection A of this section, appeal that decision to the appeal authority by alleging there is error in any order, requirement decision, or determination made by the land use authority in the decision applying the land use ordinance.

A. *Time to appeal*.

1. Any appeal must be filed in writing with the city recorder within ten calendar days of the issuance of the written decision applying the land use ordinance.
2. Notwithstanding subsection A.1 of this section, for an appeal from a decision of a historic preservation authority regarding a land use application, the land use applicant may appeal the decision within 30 days after the day on which the historic preservation authority issues a written decision.

B. *Time for hearing appeal*. The administrative appeals hearing officer shall hear the appeal within 30 days of the date the appeal was filed.

C. *Written statement setting forth theories of relief required*. The appellant shall deliver to the administrative appeals hearing officer and all other participants, five business days prior to the hearing, a written statement setting forth each and every theory of relief the appellant intends to raise at the hearing, along with a brief statement of facts in support thereof.

D. *Condition precedent to judicial review*. No person, board, or officer of the city may seek judicial review of any decision applying the land use ordinance until after challenging the land use authority's decision in accordance with this part. No theory of relief may be raised in the district court unless it was timely and specifically presented to the administrative appeals hearing officer.

E. *Standard of review and burden of proof on appeal*. The administrative appeals hearing officer shall, on appeal, presume that the decision applying the land use ordinance is valid and determine only whether or not the decision is arbitrary, capricious, or illegal. The burden of proof on appeal is on the appellant.

F. *Due process rights*. The administrative appeals hearing officer shall respect the due process rights of each participant.

G. *Direct appeal to district court*. Notwithstanding the foregoing, decisions of the city council relative to adopting or amending the general plan or any other land use ordinance may only be appealed directly to the district court.

(Code 1998, § 2-5-3; Ord. No. 004-2007, 1-23-2007; Ord. No. 009-2013, 9-13-2013; Ord. No. 017-2021, att.(2-5-3), 10-20-2021)

## 2-5-4 Variances

Any person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that person owns, leases, or in which that person holds some other beneficial interest may apply to the administrative appeals hearing officer for a variance from the terms of this chapter.

A. 1. The administrative appeals hearing officer may grant a variance only if:

   a. Literal enforcement of this chapter would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purposes of the land use ordinances;

   b. There are special circumstances attached to the property that do not generally apply to other properties in the same zone;

   c. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;

   d. The variance will not substantially affect the general plan and will not be contrary to the public interest; and

   e. The spirit of the land use ordinance is observe and substantial justice done.

2. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under subsection A.1.a of this section, the administrative appeals hearing officer may not find an unreasonable hardship unless the alleged hardship:

   a. Is located on or associated with the property for which the variance is sought; and

   b. Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.

3. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under subsection A.1.a of this section, the administrative appeals hearing officer may not find an unreasonable hardship if the hardship is self-imposed or economic.

4. In determining whether or not there are special circumstances attached to the property under subsection A.1.b of this section, the administrative appeals hearing officer may find that special circumstances exist only if the special circumstances:

   a. Relate to the hardship complained of; and

   b. Deprive the property of privileges granted to other properties in the same zone.

B. The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.

C. Variances run with the land.

D. The administrative appeals hearing officer may not grant a use variance.

E. In granting a variance, the administrative appeals hearing officer may impose additional requirements on the applicant that will:

1. Mitigate any harmful effects of the variance; or
2. Serve the purpose of the standard or requirement that is waived or modified.

(Code 1998, § 2-5-4; Ord. No. 004-2007, 1-23-2007; Ord. No. 009-2013, 9-13-2013; Ord. No. 017-2021, att.(2-5-4), 10-20-2021)

**State law reference**—Variances, U.C.A. 1953, § 10-9a-702.

**TITLE 3 BUSINESS AND LICENSE REGULATIONS**
CHAPTER 3-1 GENERAL LICENSE PROVISIONS
CHAPTER 3-2 SALES AND USE TAX
CHAPTER 3-2C MUNICIPAL TRANSIENT ROOM TAX
CHAPTER 3-3 TELEPHONIC AND CABLE TELEVISION SERVICES TAX
CHAPTER 3-4 BUSINESS TYPES
CHAPTER 3-5 CANVASSERS, PEDDLERS AND ITINERANT MERCHANTS
CHAPTER 3-6 (RESERVED FOR FUTURE USE)
CHAPTER 3-7 ALCOHOL LICENSE AND REGULATIONS
CHAPTER 3-8 RESIDENTIAL SOLICITATION
CHAPTER 3-9 SEXUALLY ORIENTED BUSINESSES
CHAPTER 3-10 SALE AND EMISSION OF FIREWORKS

## CHAPTER 3-1 GENERAL LICENSE PROVISIONS

3-1-1 (Reserved For Future Use)
3-1-2 License Assessor And Collector
3-1-3 Business License Required; Penalty
3-1-4 Classification Of Licenses
3-1-5 Application For License
3-1-6 License Fee
3-1-7 Payment Dates
3-1-8 Renewal Of License; Complaints
3-1-9 Contents Of Certificate License
3-1-10 Display Certificate Of License
3-1-11 Transfer Of License Prohibited
3-1-12 Branch Establishments
3-1-13 Joint Business Licenses
3-1-14 Reciprocal Recognition; Delivery Of Goods
3-1-15 Exemptions To License
3-1-16 Revocation Or Denial Of License

**State law reference**—General authority relative to licenses, U.C.A. 1953, §§ 10-1-203, 10-8-4.

### 3-1-1 (Reserved For Future Use)

### 3-1-2 License Assessor And Collector

The city treasurer is designated and appointed as ex officio assessor of license fees for the city. On receipt of any application for a license, the city treasurer or their designee shall assess the amount due thereon and shall collect all license fees based upon the rate established by resolution. The city treasurer or their designee shall enforce all

provisions of this title and shall cause to be filed complaints against all persons violating any of provisions of this title.

(Code 1977, § 9-113; Code 1998, § 3-1-2)

### 3-1-3 Business License Required; Penalty

It shall be a Class B misdemeanor, subject to penalty as provided in PCC 1-4-1, for any person to transact, engage in or carry on any business, trade, profession, calling or to operate a vending, pinball or coin-operated machine without first receiving the class or type of license required by the city.

A. Exception to business license required. Pursuant to U.C.A. 1953, § 10-1-203(7), a license or permit is not required for a business that is operated:
    1. Only occasionally; and
    2. By an individual who is under 18 years of age.

(Code 1977, § 9-112; Code 1998, § 3-1-3)

### 3-1-4 Classification Of Licenses

Businesses within the city shall be classified as one of three types, based upon the description contained in the application, or the decision of the city council. These three types shall be:

A. *Conforming use business*. A legal business activity which is carried on within the city at a location and in a manner which is in conformance with all applicable zoning regulations, building, health and safety codes, and is a permitted use for that zone.

B. *Nonconforming use business*. A business activity which was lawful prior to the adoption, revision, or amendment of the zoning title, but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning title.

C. *Home business*.
    1. A business conducted on land containing the primary dwelling or an adjacent parcel owned by the same owner;
    2. The business owner must be a resident of the primary dwelling;
    3. The business owner may employ family members residing in the primary dwelling;
    4. The business owner may employ no more than four individuals that do

not reside in the primary dwelling but work at the premises;

5. The business will provide sufficient parking and needed facilities for employees and customers completely and entirely on homeowner's land containing the primary dwelling or an adjacent parcel owned by the homeowner;
6. The business does not change the aesthetic character of the area and zone;
7. There will be no commercial display, other than an unlighted nameplate sign, which is two square feet in area or less;
8. The business must comply with PCC chapter 3-4;
9. Home businesses are subject to all licensing, inspections, laws and regulations, etc.
    a. Exception to license fee. See PCC 3-1-6 and 3-1-15.

(Code 1998, § 3-1-4(part))

**3-1-5 Application For License**

A. *Contents*. All applications for license shall include:
    1. The name of the person desiring a license.
    2. The kind of license desired, stating the business, calling, trade or profession to be performed, practiced or carried on.
    3. The class of license desired, if such licenses are divided into classes.
    4. The place where such business, calling, trade or profession is to be carried on, giving the street number if the business, calling, trade or profession is to be carried on in any building or enclosure having such number.
    5. The period of time for which such license is desired to be issued.
    6. For home businesses, the applicant must inform neighbors of desired purpose and obtain signatures from neighbors stating they have informed them.

B. *Coin-operated machine or device*. In the event that the license application relates to a coin-operated machine or device, the application shall identify the machine or device to which it applies and the location thereof.

(Code 1977, § 9-116; Code 1998, § 3-1-5)

## 3-1-6 License Fee

There is hereby imposed and levied a tax on the business, location, trade, calling or profession on all persons engaged in business within the city. The tax shall be as set by resolution of the city council.

A. *Exception to business license fee*. Pursuant to U.C.A. 1953, § 10-1-203(7) a license or permit is not required for a home business unless the combined offsite impact of the home-based business and the primary residential use materially exceeds the offsite impact of the primary residential use alone.

(Code 1977, § 9-211; Code 1998, § 3-1-6)

## 3-1-7 Payment Dates

All license fees, except residential solicitation license fees, shall be due and payable as follows, except as may be otherwise provided:

A. *Payable*. Annual fees shall be payable before each calendar year, in advance. The annual license shall date from January 1 of each year and shall expire on December 31 of each year. All businesses may be notified 30 days before expiration (December 1). Annual fees may not be paid more than 60 days prior to the expiration date.

B. *Due*. Annual fees shall be due on January 1 of each calendar year and shall become delinquent if not paid prior to February 1 of each year.

C. *Penalty for late payment*. If any license fee is not paid by January 31, a penalty of 50 percent of the amount of such license fee shall be added to the original amount thereof. If a license fee is not paid by the last day of February, the total license fees due at the time shall be doubled. If any license fee is not paid by March 31, a new application must be filed with the application fee and any and all late fees. The business license will be subject to all city, state, and/or federal codes and any other applicable rules and regulations in effect as of the date the new application is filed.

D. *Applications after July 1*. One-half of the annual fee shall be payable for all licenses issued by the city pursuant to applications made after July 1 of each year; licenses issued after July 1 shall expire on January 1 of the following year. Payment shall be due upon the date of application approval and shall be received prior to issuance of business license.

    1. *Exception*. Residential solicitation licenses are not allowed the half-year fee.

E. *Interstate commerce*. None of the license taxes provided for by this section shall be applied as to occasion an undue burden on interstate commerce. In any case,

where a license tax is believed by a licensee or applicant for license to place an undue burden upon such commerce, the licensee or applicant for license may apply to the license assessor and collector for an adjustment of the tax so that it shall not be discriminatory, unreasonable or unfair as to such commerce. Such application may be made before, at or within 30 days after payment of the prescribed license tax. The applicant shall, by affidavit and supporting testimony, show the applicant's method of business and the gross volume or estimated gross volume of business and such other information as the license assessor and collector may deem necessary in order to determine the extent, if any, of such undue burden on such commerce. The license assessor and collector shall then conduct an investigation, comparing applicant's business with other businesses of like nature and shall make findings of fact from which shall determine whether the tax fixed by this chapter is discriminatory, unreasonable or unfair as to applicant's business and shall recommend to the city council a license tax for the applicant in an amount that is nondiscriminatory, reasonable and fair, and if the city council is satisfied that such license tax is the amount that the applicant should pay, it shall fix the license tax in such amount. If the regular license tax has already been paid, the city council shall order a refund of the amount over and above the tax fixed by the city council. In fixing the fee to be charged, the license assessor and collector shall have the power to base the fee upon a percentage of gross sales, or employees, or may use any other method which will ensure that the fee assessed shall be uniform with that assessed on businesses of like nature.

(Code 1977, § 9-125; Code 1998, § 3-1-7; Ord. No. 95-9-000.1, 11-14-1995)

**3-1-8 Renewal Of License; Complaints**

A. Business licenses will automatically be renewed upon receipt of the renewal fee and proof of a valid professional license, if required.

B. *Complaints*. If the city receives a written complaint about a business during the calendar year during which the business license is in effect, the licensee or applicant shall be given a notice, which shall state the receipt and nature of the complaint. If the business is found to be noncompliant with the business license requirements, the owner will be allowed reasonable time to bring the business into compliance. If the business cannot be brought into compliance, the land use authority may begin the revocation process.

(Code 1998, § 3-1-8; Ord. No. 004-99, 2-23-1999)

**3-1-9 Contents Of Certificate License**

All certificates of license shall be signed by the mayor, attested by the city recorder and shall contain the following information:

A. *Name*. The name of the person to whom such certificate has been issued.

B. *Amount*. The amount paid.

C. *Type*. The type of license and the class of such license, if licenses are divided into classes.

D. *Term*. The term of the license with the commencing date and the date of its expiration.

E. *Location*. The place where such business, calling, trade or profession is to be conducted.

(Code 1977, § 9-117; Code 1998, § 3-1-9)

**3-1-10 Display Certificate Of License**

A. *Posted in conspicuous place*. Every certificate of license issued under this title shall be posted by the licensee in a conspicuous place upon the wall of the building, room or office of the place of business so that the same may be easily seen. When such certificate of license has expired, it shall be removed by the licensee from such place in which it has been posted, and no certificate of license which is not in force and effect shall be permitted to remain posted upon the wall or any part of any room within the place of business. If the licensee's business is such that a license cannot be displayed due to the transient or mobile nature of the business, then the licensee shall carry the license on the licensee's person, ready to be shown upon request by an authorized officer during all such time or times while the licensee is engaged in or pursuing the business for which a license is granted.

B. *Coin-operated machine*. In the event the license is for a coin-operated machine or device, the certificate shall be attached or displayed in the immediate vicinity of the machine for which it has been issued.

(Code 1977, § 9-118; Code 1998, § 3-1-10)

**3-1-11 Transfer Of License Prohibited**

No license granted or issued under any ordinance of the city shall be assigned or transferred to any other person. It shall not be deemed to authorize any person other than therein named to do business or to authorize any other business, calling, trade or profession than is therein named unless by permission of the city council.

(Code 1977, § 9-121; Code 1998, § 3-1-11)

**3-1-12 Branch Establishments**

A separate license must be obtained for each separate place of business in the city and each license shall authorize the licensee to engage only in the business licensed thereby at the location or in the manner designated in such license, provided that warehouses and distributing places used in connection with or incident to a business licensed under this title shall not be deemed to be separate places of business or branch establishments.

(Code 1977, § 9-121; Code 1998, § 3-1-12)

## 3-1-13 Joint Business Licenses

Whenever any person is engaged in two or more businesses at the same location within the city, such person shall not be required to obtain separate licenses for conducting each of such businesses but shall be issued one license which shall specify on its face all such businesses. The license tax to be paid shall be computed at the highest license fee applicable to any of the businesses being conducted at such location. The sale of any other product or service requiring an additional license shall be subject to such additional licensing requirement. Where two or more persons conduct separate businesses at the same location, each such person shall obtain a license for such business and pay the required license tax for such business.

(Code 1977, § 9-122; Code 1998, § 3-1-13)

## 3-1-14 Reciprocal Recognition; Delivery Of Goods

A. *Exceptions*. No license shall be required for operation of any vehicle or equipment in the city when:

   1. Such vehicle is merely passing through the city.
   2. Such vehicle is used exclusively in intercity or interstate commerce.

B. *Delivery of property*. No license shall be required by this title of any person whose only business activity in the city is mere delivery in the city of property sold by the person at a regular place of business maintained by the person outside the city where:

   1. Such person's business is at the time of such delivery licensed by the state municipality or county in which such place of business is situated;
   2. The authority licensing such business grants to licensees of the city making deliveries within its jurisdiction the same privileges, upon substantially the same terms, as are granted by this section;
   3. Neither the property delivered nor any of the facilities by which it was manufactured, produced or processed are subject to inspection by authority of the city for compliance with health or sanitary standards prescribed by the city; and

4. The truck or other conveyance by which such delivery is made prominently displays at all times a license plate or symbol issued be the said licensing authority to evidence such business license. Such plate or symbol shall identify the licensing authority by which it is issued, shall indicate that it evidences a license issued thereby, and shall specify the year or term for which it is effective.

C. *Certification of section*. The city recorder shall, at the request of any person, certify a copy of this section to any municipality or county of the state to which a copy has not previously been certified.

(Code 1977, § 9-123; Code 1998, § 3-1-14)

**3-1-15 Exemptions To License**

A. *Tax exempt business*. No license fee shall be imposed under PCC 3-1-6 on any person engaged in business for solely religious, charitable, eleemosynary or other types of strictly nonprofit purposes which is tax exempt in such activities under the laws of the United States and the state, nor shall any license fee be imposed on any person engaged in a business specifically exempted from municipal taxation and fees by the laws of the United States or the state; nor shall any license fee be imposed upon any person not maintaining a place of business within the city who has paid a like or similar license tax or fee to some other taxing unit within the state and which taxing unit exempts from its license tax or fee, by reciprocal agreement or otherwise, businesses domiciled in the city and doing business in such taxing unit.

B. *Reciprocal agreements with other agencies*. The license assessor and collector may, with approval of the city council, enter into reciprocal agreements with the proper officials of other taxing units, as may be deemed equitable and proper, in effecting the exemption provided for in subsection A of this section.

C. *Exception to business license required*. Pursuant to U.C.A. 1953, § 10-1-203(7) a license or permit is not required for a business that is operated:

1. Only occasionally; and
2. By an individual who is under 18 years of age.

D. *Exception to business license fee*. Pursuant to U.C.A. 1953, § 10-1-203(7) a license or permit is not required for a home business unless the combined offsite impact of the home-based business and the primary residential use materially exceeds the offsite impact of the primary residential use alone.

(Code 1977, § 9-124; Code 1998, § 3-1-15)

## 3-1-16 Revocation Or Denial Of License

A. *Failure to comply; unlawful activities*. Any license issued pursuant to the provisions of this Code or of any ordinance of the city may be revoked and any application denied by the land use authority because of:

1. The failure of the licensee or applicant to comply with the conditions and requirements of this Code or any ordinance of the city.
2. Unlawful activities conducted or permitted on the premises where the business is conducted.

B. *Notice to licensee*. Prior to the revocation of a license or denial of an application to renew business license, the licensee or applicant shall be given a notice which shall state in substance that the land use authority intends to revoke the business license or deny the application to renew, together with the reasons therefor, at a regular or special meeting of the land use authority (which shall be at least ten days and not more than 30 days from the date notice is sent), and that the licensee or applicant has a right to appear, to be represented by counsel, to hear the evidence against the licensee, to cross-examine witnesses and to present evidence as to why the license should not be revoked or the application denied.

1. The licensee or applicant may appeal the decision of the land use authority, as allowed by PCC 2-5-3.

C. *Not applicable to businesses not previously licensed*. The preceding subsection shall not apply to applications for licenses for businesses which have not previously been licensed by the city, and such applicants need only be informed that the application has been denied.

(Code 1977, § 9-120; Code 1998, § 3-1-16)

# CHAPTER 3-2 SALES AND USE TAX

ARTICLE A GENERAL PROVISIONS
ARTICLE B MUNICIPAL ENERGY SALES AND USE TAX

## ARTICLE A GENERAL PROVISIONS

3-2-1 State Code And Ordinances Adopted

### 3-2-1 State Code And Ordinances Adopted

The city hereby adopts be reference the provisions of the Sales and Use Tax Act (U.C.A. 1953, § 59-12-101 et seq.), as amended, and all city ordinances adopted with reference to sales and use tax.

(Code 1998, § 3-2-1)

## ARTICLE B MUNICIPAL ENERGY SALES AND USE TAX

3-2A-1 Intent
3-2A-2 (Reserved For Future Use)
3-2A-3 Tax Levied
3-2A-4 Exemptions To Tax
3-2A-5 Existing Franchise Agreements
3-2A-6 (Reserved For Future Use)
3-2A-7 Incorporation Of State Statutes
3-2A-8 Additional License Or Reporting Not Required

**State law reference**—Municipal Energy Sales and Use Tax Act, U.C.A. 1953, § 10-1-301 et seq.

### 3-2A-1 Intent

It is the intent of the city to repeal its franchise tax levied on gas and electricity as applicable and adopt the municipal energy sales and use tax, pursuant to and in conformance with, U.C.A. 1953, § 10-1-301 et seq., the Municipal Energy Sales and Use Tax Act.

(Code 1998, §§ 3-2A-1, 3-2B-1; Ord. No. 6-17-1997, 6-30-1997)

### 3-2A-2 (Reserved For Future Use)

### 3-2A-3 Tax Levied

There is hereby levied, subject to the provisions of this article, a tax on every sale or use of taxable energy made within the city equaling six percent of the delivered value of the taxable energy to the consumer. This rate is effective as of July 1, 2021. This tax shall be known as the municipal energy sales and use tax.

A. *Calculation*. The tax shall be calculated on the delivered value of the taxable energy to the consumer.

B. *Additional to other sales or use tax*. The tax shall be in addition to any sales or use tax on taxable energy imposed by the city authorized by the Local Sales and Use Tax Act (U.C.A. 1953, § 59-12-201 et seq.).

(Code 1998, §§ 3-2A-3, 3-2B-3; Ord. No. 6-17-1997, 6-30-1997; Ord. No. 2021-002, 7-1-2021)

### 3-2A-4 Exemptions To Tax

A. No exemptions are granted from the municipal energy sales and use tax, except as expressly provided in U.C.A. 1953, § 10-1-305 (2)(b).

B. Exemptions from the municipal energy sales and use tax shall be as required in U.C.A. 1953, § 10-1-305.

(Code 1998, §§ 3-2A-4, 3-2B-4; Ord. No. 6-17-1997, 6-30-1997)

**3-2A-5 Existing Franchise Agreements**

A. *No alteration*. This article shall not alter any existing franchise agreements between the city and energy suppliers.

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

1. The energy supplier pays the contractual franchise fee to the city pursuant to a franchise agreement in effect on July 1, 1997;

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

3. The energy supplier has accepted the franchise.

(Code 1998, §§ 3-2A-5, 3-2B-5; Ord. No. 6-17-1997, 6-30-1997)

**3-2A-6 (Reserved For Future Use)**

**3-2A-7 Incorporation Of State Statutes**

A. Except as herein provided and except insofar as they are inconsistent with the provisions of the Municipal Energy Sales and Use Tax Act (U.C.A. 1953, § 10-1-301 et seq.), as well as this article, all of the provisions of U.C.A. 1953, title 59, ch. 12, pt. 1, as amended (U.C.A. 1953, § 59-12-101 et seq.), and in force and effect on the effective date hereof, insofar as they relate to sales and use taxes, excepting sections 59-12-101 and 59-12-119 thereof, and excepting for the amount of the sales and use taxes levied therein, are hereby adopted and made a part of this article as if fully set forth herein.

B. Wherever and to the extent that in U.C.A. 1953, title 59, ch. 12, pt. 1, as amended (U.C.A. 1953, § 59-12-101 et seq.), as amended, the state is named or referred to as the "taxing agency," the name of the city shall be substituted, insofar as is necessary for the purposes of that part, as well as U.C.A. 1953, title 10, ch. 1, pt. 3 (U.C.A. 1953, § 10-1-301 et seq.), as amended. Nothing in this subsection shall be deemed to require substitution of the name city for the word state when that word is used as part of the title of the state tax commission or of the state constitution, nor shall the name of the city be substituted for that of the state in

any section when the result of such a substitution would require action to be taken by or against the city or any agency thereof, rather than by or against the state tax commission in performing the functions incident to the administration or operation of this article.

C. Any amendments made to U.C.A. 1953, title 59, ch. 12, pt. 1, as amended (U.C.A. 1953, § 59-12-101 et seq.), as amended, which would be applicable to the city for the purposes of carrying out this article are hereby incorporated herein by reference and shall be effective upon the date that they are effective as a state statute.

(Code 1998, §§ 3-2A-7, 3-2B-7; Ord. No. 6-17-1997, 6-30-1997)

### 3-2A-8 Additional License Or Reporting Not Required

No additional license to collect or report the municipal energy sales and use tax levied by this article is required, provided the energy supplier collecting the tax has a license issued under U.C.A. 1953, § 59-12-106.

(Code 1998, §§ 3-2A-8, 3-2B-8; Ord. No. 6-17-1997, 6-30-1997)

## CHAPTER 3-2C MUNICIPAL TRANSIENT ROOM TAX

3-2C-1 Intent
3-2C-2 Municipal Transient Room Tax
3-2C-3 Tax Collection By The State Tax Commission
3-2C-4 Conflict

### 3-2C-1 Intent

It is the intent of the city to adopt the municipal transient room tax, pursuant to, and in conformance with, U.C.A. 1953, § 59-12-3A.

(Ord. No. 01-2022, § 3-2C-1, 2-16-2022)

### 3-2C-2 Municipal Transient Room Tax

A. There is hereby levied, subject to the provisions of the state code, a tax equaling one percent of charges to the customer for the accommodations and services described in U.C.A. 1953, § 59-12-103. This tax shall be known as the municipal transient room tax.

B. The tax shall be in addition to any sales or use tax imposed by the city on charges for the accommodations and services as authorized by U.C.A. 1953, § 59-12-2, the Local Sales and Use Tax Act.

(Ord. No. 01-2022, § 3-2C-2, 2-16-2022)

### 3-2C-3 Tax Collection By The State Tax Commission

A. On or before the effective date of the ordinance from which this chapter is derived, the state tax commission will perform all functions incident to the administration and collection of the municipal transient room tax, in accordance with the state code.

(Ord. No. 01-2022, § 3-2C-3, 2-16-2022)

### 3-2C-4 Conflict

To the extent of any conflict between this chapter and any other city ordinance or regulation, the provisions of this chapter shall be controlling.

(Ord. No. 01-2022, § 3-2C-4, 2-16-2022)

## CHAPTER 3-3 TELEPHONIC AND CABLE TELEVISION SERVICES TAX

3-3-1 (Reserved For Future Use)
3-3-2 Tax Levied
3-3-3 Reports And Payment Of Tax

**State law reference**—Municipal Telecommunications License Tax Act, U.C.A. 1953, § 10-1-401 et.

### 3-3-1 (Reserved For Future Use)

### 3-3-2 Tax Levied

A. *Utilities*. There is hereby levied upon the business of supplying telephonic and cable television services an annual license tax based on the gross revenue derived from the sale and use of the services of such utilities from users located within the city.

B. *Competitors*. There is hereby levied upon the business of every person or company engaged in business in the city of supplying telephone service or cable television service an annual license tax based on the gross revenue derived from the sale and use of the service or equipment of such business from users located within the corporate limits of the city.

C. *Amount of tax*. The amount of the annual license tax shall be equal to five percent of the gross revenue derived from the sale and use of the services or equipment of such business from users located within the city from and after July 1, 1997.

(Code 1998, § 3-3-2; Ord. No. 97-OM006, 6-17-1997, eff. 7-1-1997)

### 3-3-3 Reports And Payment Of Tax

Within 45 days after the close of each quarter in a calendar year, the public utilities taxed pursuant to this chapter shall file with the city treasurer a report of its gross revenue derived from the sale and use of public utility services in the city, together with a computation of the tax levied against the utility. The utility shall pay to the city treasurer the amount of the tax at the same time the report is filed.

(Code 1998, § 3-3-3; Ord. No. 97-OM006, 6-17-1997, eff. 7-1-1997)

## CHAPTER 3-4 BUSINESS TYPES

3-4-1 Permits And Regulations
3-4-2 Nonconforming Use Business
3-4-3 (Reserved For Future Use)
3-4-4 Child Care Providers And Businesses
3-4-5 Home Businesses

### 3-4-1 Permits And Regulations

Requests for business licenses of those types of businesses requiring conditional use permits shall be considered by the land use authority, when such businesses meet the requirements of PCC 10-3-5, the general requirements for business licenses under PCC chapter 3-1, and meet each of the requirements set forth in this chapter relevant to that business type. The business license for the business activity for the prescribed effective dates of the license shall be subject to annual renewal, in January, under these regulations.

(Code 1998, § 3-4-1; Ord. No. 94-111, 8-23-1994)

### 3-4-2 Nonconforming Use Business

The conditions for a nonconforming use business are as follows:

A. *State or federal requirements*. applicant shall apply for and receive any required state or federal licensure or certification, as required by the business activity, prior to renewal for city license.

B. *Renewal*. All nonconforming business licenses are granted from date of issuance to the following January and must be renewed thereafter annually in January. Compliance with stated conditions will be reviewed at the time the conditional use is originally granted and annually when it is renewed. Complaints against the business can also cause a review and possible revocation of the permitting license.

C. *Display of license*. The business shall display such license in the place of business so that the same is plainly visible to the public.

D. *Inspection rights*. The city will perform an inspection prior to issuing a business license. The city reserves the right to perform follow up inspections to ensure code compliance.

E. *Nuisances; disturbances prohibited*. For the duration of licensure, the business shall not create any disturbances such as noise, odor, fumes, light, glare, color, design, materials, construction, lighting, or vibrations or other nuisances, including radio and television reception, parking problems, impeding or disrupting traffic, either pedestrian or vehicular, exposed external storage, unsightliness or pollution that may be discernible beyond the premises or unreasonably disturb the peace and quiet of the neighborhood.

F. *Vehicles advertising*. Any vehicle or equipment bearing any advertising related to the business shall be operable, stored entirely on private property and not be parked expressly for advertising purposes.

G. *Code compliance*. There shall be complete uniformity with fire, building, electrical and health codes and to all state and city laws and ordinances.

H. *Utility rates*. The business shall be charged at the current commercial rate for utilities.

I. *Changes in use*. The nonconforming use of a building or structure may not be changed, except to a conforming use. Where such change is made, the use shall not thereafter be changed back to a nonconforming use. The nonconforming use may not be transferred.

J. *Disabled persons; consideration*. Special consideration may be given to disabled persons if a waiver of these conditions is requested through the city council at the time of licensure.

(Code 1998, § 3-4-2(part); Ord. No. 010-2004, 7-26-2005)

**3-4-3 (Reserved For Future Use)**

**3-4-4 Child Care Providers And Businesses**

The conditions for a child care business permit are as follows:

A. *City license application*. Applicant shall fill out and file with the city a business license application as required under the provisions of PCC chapter 3-1. The provisions set forth shall be controlling as to all matters relating to the requirements for and issuance of a license, license fees, exemptions, renewals, etc., However, this section shall not be construed so as to waive the provisions and requirement of any other ordinance of the city and the requirements and fees herein shall be in addition to any other requirements and fees of any other ordinance.

B. *Display of license*. Child care businesses shall conspicuously display such license in their place of business so that the same is plainly visible to the public.

C. *Code compliance*. The child care business shall, at all times, meet all fire, building, health and safety codes applicable to the age and number of children attending.

D. *Facilities; sanitation*. Child care businesses shall be equipped with adequate bathroom facilities which shall be maintained in a sanitary manner and kept in good repair, and have locks that are readily operable by staff from the outside.

E. *Health regulations*. The child care business is subject to any required rules, regulations and inspections as set forth by the Bear River District Health Department.

F. *State or county requirements*. All required state or county licenses and permits shall be obtained prior to application. the city requires all child care providers, as defined by U.C.A. 1953, § 26-39-102 to be licensed by the state.

G. *Regulations during license period*. For the duration of the licensed period, a child care business, if located in a dwelling, shall:

    1. *Incidental use*. Remain clearly incidental and secondary to the use of the dwelling and not change the character thereof.

    2. *Residential character maintained*. Not detract from the residential character of the neighborhood, nor physically change the dwelling to the extent that it would alter the residential character or appearance of the dwelling on the neighborhood.

    3. *Disturbances*. Not create any disturbances such as noise, parking problems, impeding or disrupting traffic, either pedestrian or vehicular, unsightliness or pollution that may be discernible beyond the premises or unreasonably disturb the peace and quiet of the neighborhood.

    4. *Sign regulations*. See PCC chapter 10-15.

H. *Square footage*. Indoor areas used for the child care business shall be clean, present no hazards to the safety of the children, and shall meet state regulations for minimum square footage for the daily activities of each child. Child care businesses may not operate on or above the second story of the building.

I. *Outdoor areas*. Outdoor areas used for the child care business shall be clean, present no hazards to the safety of the children, and shall meet state regulations for minimum square footage for each child.

J. *Fencing*. Outdoor activity areas must be fenced unless otherwise approved by the city. All fences must be constructed so as to contain in the activity area, such as a chain-link or solid board fence.

K. *Utility rates*. The child care business shall not cause a demand for city or utility services or community facilities in excess of those usually and customarily provided for residential uses. Any utility or city service usage in excess of the customary residential service shall be charged at the current commercial rate.

L. *Renewal*. All child care business permits are granted for a one year period and must be renewed annually in January. Compliance with stated conditions will be reviewed at the time the conditional use permit is originally granted and annually when it is renewed. Complaints against the child care business can also cause a review and possible revocation of the permitting license. A change in the instructor to whom the license is issued or in the location of the child care business automatically voids the license issued by the city.

M. *Off-street parking*. Child care businesses must provide off-street parking for employees' cars, if present, and for children to load and unload in a safe manner, without hindering neighborhood vehicular traffic.

N. *Disabled persons; consideration*. Special consideration may be given to disabled persons, if a waiver of these conditions is requested through the city council at the time of licensure.

(Code 1998, § 3-4-4; Ord. No. 94-111, 8-23-1994)

**State law reference**—Utah Child Care Licensing Act, U.C.A. 1953, § 26-39-101 et seq.

## 3-4-5 Home Businesses

The regulations for a home business are as follows:

A. *State or federal regulations*. The applicant shall apply for and receive any required state or federal licensure or certification, as required by the business activity, in conjunction with the application for city license.

B. *City license application*. The applicant shall fill out and file with the city a business license application as required under the provisions of PCC chapter 3-1. The provisions set forth shall be controlling as to all matters relating to the requirements for and issuance of a license, license fees, exemptions, renewals, etc.

C. *Display of license*. Home businesses shall conspicuously display such license in their place of business so that the same is plainly visible to the public.

D. *Inspection rights*. The city will perform an inspection prior to issuing a business license. The city reserves the right to perform follow up inspections to ensure code compliance.

E. *Floor area utilized*. No more than 25 percent of the gross finished living area of the residential dwelling structure, excluding the garage; nor, in the alternative no

more than 50 percent of the total floor area of any garage wherein the home business is conducted, shall be utilized for the home business. If the garage is utilized, displaced parking shall be permitted only within the required setbacks. Additionally, the garage door shall remain shut, except for occasional required opening. A passage door to the outside shall be provided in addition to the garage door.

F. *Accessory buildings*. A home business may involve the use of any accessory building, yard or activity outside the main building.

G. *Regulations during license period*. For the duration of the licensed period, a home business shall:

    1. *Incidental use*. Remain clearly incidental and secondary to the use of the dwelling and not change the character thereof.

    2. *Residential character maintained*. Not detract from the residential character of the neighborhood, nor physically change the dwelling to the extent that it would alter the residential character or appearance of the dwelling or neighborhood.

    3. *Nuisances; disturbances prohibited*. Not create any disturbances such as noise, odor, fumes, light, glare, color, design, materials, construction, lighting, or vibrations or other nuisances, including radio and television, reception, parking problems, impeding or disrupting traffic, either pedestrian or vehicular, exposed external storage, unsightliness or pollution that may be discernible beyond the premises or unreasonably disturb the peace and quiet of the neighborhood.

    4. *Sign regulations*. See PCC chapter 10-15.

H. *Vehicle advertising*. Any vehicle or equipment bearing any advertising related to the business shall be operable, stored entirely on private property and not be parked expressly for advertising purposes.

I. *Code compliance*. There shall be complete uniformity with fire, building, electrical and health codes and to all state and city laws and ordinances.

J. *Utility rates*. The home business shall not cause a demand for city or utility services or community facilities in excess of those usually and customarily provided for residential uses. Any utility or city service usage in excess of customary residential service shall be charged at the current commercial rate.

K. *Electrical power*. No 3-Phase electric power may be provided directly to the home business. A converter may be used.

L. *Renewal*. All home businesses are granted from date of issuance to the following January and must be renewed thereafter annually in January. Compliance with stated conditions will be reviewed at the time the conditional use permit is

originally granted and annually when it is renewed. Complaints against the home business can also cause a review and possible revocation of the permitting license.

M. *Disabled persons; consideration*. Special consideration may be given to disabled persons, if a waiver of these conditions is requested through the city council at the time of licensure.

N. *Permitted home businesses*. See PCC chapter 10-6.

O. *Prohibited home businesses*. The city council finds and determines that the business enterprises listed in this subsection will, even when conducted in conformance with the provisions of this chapter, alter or create a negative impact upon the residential neighborhoods of the city. Because of this finding, and because it is determined that no conditions of operations can remove the inherent harm and negative impact caused by such a business, the following businesses are prohibited:

1. Animal hospitals.
2. Clinics or hospitals.
3. Junk yards.
4. Commercial stables or kennels.
5. Any use dealing with explosive, hazardous or toxic materials not specifically permitted.
6. Other businesses as determined by the city council.

(Code 1998, § 3-4-5; Ord. No. 010-2004, 7-26-2005; Ord. No. 001-2011, 2-8-2011)

## CHAPTER 3-5 CANVASSERS, PEDDLERS AND ITINERANT MERCHANTS


3-5-1 (Reserved For Future Use)
3-5-2 License Required
3-5-3 Application For License; Fee
3-5-4 (Reserved For Future Use)
3-5-5 Fee For License
3-5-6 Licenses And Badges
3-5-7 Appeal
3-5-8 Additional Requirements
3-5-9 Exceptions


### 3-5-1 (Reserved For Future Use)

### 3-5-2 License Required

It shall be unlawful for:

A. *Transient merchant, itinerant merchant or vendor*. A transient merchant, itinerant merchant or itinerant vendor to engage in such business without first obtaining a license therefor in compliance with the provisions of this chapter.

B. *Peddler*. Any person to engage in the business of peddler without first obtaining a license therefor as provided in this chapter.

(Code 1998, § 3-5-2; Ord. No. 002-2007, 1-9-2007; Ord. No. 008-2011, 10-11-2011)

**3-5-3 Application For License; Fee**

A. *Required; contents*. Applicants for licenses under this chapter shall file a sworn application in writing signed by the applicant if an individual, by all partners if a partnership, and by the president if a corporation, or by an agent, including a state or regional agent, with the city treasurer's designee, which shall give the following information:

1. The name of the applicant and if the applicant is an employee or agent of a corporation, the name of the corporation.
2. The address of the applicant and if the applicant is an agent or employee of a corporation, the address of the corporation.
3. A brief description of the nature of the business and the goods to be sold and from whom or where the applicant obtains the goods to be sold.
4. If the applicant is employed by or an agent of another person, the name and permanent address of such other person.
5. The length of time for which the applicant desires to engage in business within the city.
6. The places within the city where the applicant proposes to carry on business.
7. A list of the other municipalities in which the applicant has engaged in business within the six-month period preceding the date of the application.
8. A photograph of the applicant, taken within six months immediately prior to the date of filing the application, which photograph shall be two inches by two inches, showing the head and shoulders of the applicant in a clear and distinguishing manner.
9. An original or copy, dated no older than 180 days prior to the date of the application, of either:
    a. A state department of public safety bureau of criminal identification verified criminal history report personal to the applicant; or

b. Verification by the state department of public safety bureau of criminal identification that no criminal history rising to the level of a disqualifying status exists for the applicant.

10. If the applicant is employed by another person, documents showing that the person for which the applicant proposes to do business is authorized to do business within the state.

B. *Fee*. At the time of filing the application, a fee as established by resolution of the city council, which shall be deposited with the city treasurer, is required.

(Code 1977, § 9-453; Code 1998, § 3-5-3; Ord. No. 002-2007, 1-9-2007; Ord. No. 008-2011, 10-11-2011)

**3-5-4 (Reserved For Future Use)**

**3-5-5 Fee For License**

The license fee which shall be charged by the city treasurer's designee for any license issued pursuant to this chapter shall be set by resolution of the city council and listed on the city fee schedule.

(Code 1998, § 3-5-5; Ord. No. 97-OM009, 7-8-1997; Ord. No. 002-2007, 1-9-2007; Ord. No. 008-2011, 10-11-2011)

**3-5-6 Licenses And Badges**

A. *Issuance*. The city may issue to each licensee at the time of delivery of the license, a badge which shall contain the words "licensed transient merchant," or "licensed peddler," as the case may be, for which the application was made and the license issued, and the number of the license, in letters and figures easily discernible from a distance of five feet). Such badge shall, during the time peddlers or solicitors are engaged in the business for which they are licensed, be worn constantly by them on the front of their outer garment in such a way as to be conspicuous.

B. *Exhibit license*. Any person licensed pursuant to this chapter shall exhibit such license at the request of any citizen of the city.

C. *Produce license upon request.* It shall be the duty of any officer to require any person seen peddling, and who is not known by such officer to be duly licensed, to produce their license and to enforce the provisions of this chapter.

D. *Expiration of license*. All licenses issued pursuant to this chapter shall expire on the date specified on the license.

(Code 1977, § 9-456; Code 1998, § 3-5-6; Ord. No. 002-2007, 1-9-2007; Ord. No. 008-2011, 10-11-2011)

### 3-5-7 Appeal

Any person aggrieved by the denial of a license issued pursuant to this chapter may file an appeal. Such appeal shall be taken by filing with the city council within 14 days after notice of the action complained of has been mailed to such person's last-known address or address on the business application, a written statement setting forth fully the grounds for the appeal. A time and place for the hearing on such appeal and notice of such hearing shall be set and given to the applicant in the same manner as provided in PCC 3-1-16.

(Code 1977, § 9-456; Code 1998, § 3-5-7; Ord. No. 002-2007, 1-9-2007; Ord. No. 008-2011, 10-11-2011)

### 3-5-8 Additional Requirements

This chapter shall not be construed so as to waive the provisions and requirements of any other ordinance of the city and the requirements and fees required herein shall be in additions to any other requirements and fees of any other ordinance of the city.

(Code 1977, § 9-457; Code 1998, § 3-5-8; Ord. No. 002-2007, 1-9-2007; Ord. No. 008-2011, 10-11-2011)

### 3-5-9 Exceptions

The provisions of this chapter shall not apply to any individual who is, at the time the individual is engaged in any activity which would otherwise require licensing by this chapter, engaged in an activity which is authorized by any church or charity which has a permanent structure located within the state, provided such church or charity has had such permanent structure for at least six months prior to the date when the individual engaged in the activity would otherwise have required licensing by this chapter.

(Code 1977, § 9-458; Code 1998, § 3-5-9; Ord. No. 002-2007, 1-9-2007; Ord. No. 008-2011, 10-11-2011)

## CHAPTER 3-6 (RESERVED FOR FUTURE USE)

## CHAPTER 3-7 ALCOHOL LICENSE AND REGULATIONS

3-7-1 Application Of Title
3-7-2 Exercise Of Police Powers
3-7-3 Policy
3-7-4 Definitions
3-7-5 Prohibited Locations For The Sale Of Alcohol
3-7-6 License Required

3-7-7 Class "A" Beer License
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3-7-10 License Fees
3-7-11 Disqualifications Of An Alcohol License
3-7-12 Procedure To Obtain A License
3-7-13 Permit From The Bear River District Health Department
3-7-14 Bond
3-7-15 Terms And Conditions Of License
3-7-16 Regulations
3-7-17 Acknowledgement Of Compliance With State Code

**State law reference**—Utah Alcoholic Beverage Control Act, U.C.A. 1953, § 32B-1-101, et seq.

## 3-7-1 Application Of Title

This title governs alcoholic beverage control in the city. All licenses shall comply with the Utah Alcoholic Beverage Control Act (U.C.A. 1953, § 32B-1-101 et seq.), rules of the Utah Alcoholic Beverage Control Commission, and this chapter. The language contained in this code shall in no way excuse an applicant from knowing, understanding, and applying the rules regarding alcoholic beverages as promulgated by the state.

(Code 1998, § 3-7-1; Ord. No. 011-2004, 3-23-2004; Ord. No. 002-2013, 4-9-2013; Ord. No. 009-2014, 1-12-2015)

## 3-7-2 Exercise Of Police Powers

This title is an exercise of the police powers of the city for the protection of the public health, peace, safety, welfare, and morals and regulates the sale, service, storage, distribution, and consumption of alcoholic products.

(Code 1998, § 3-7-2; Ord. No. 011-2004, 3-23-2004; Ord. No. 002-2013, 4-9-2013; Ord. No. 009-2014, 1-12-2015)

## 3-7-3 Policy

The policies of the city are:

A. The city may not promote or encourage the sale or consumption of alcoholic beverages.

B. The city shall conduct, license, and regulate the sale of alcoholic beverages in a manner that:

1. Reasonably satisfies the public demand and protects the public interest,

including the rights of citizens who do not wish to be involved with alcoholic products; and

2. Will promote the reduction of the harmful effects of over consumption of alcoholic beverages by adults and consumption of alcoholic beverages by minors.

(Code 1998, § 3-7-3; Ord. No. 011-2004, 3-23-2004; Ord. No. 002-2013, 4-9-2013; Ord. No. 009-2014, 1-12-2015)

**3-7-4 Definitions**

All definitions in U.C.A. 1953, title 32B are adopted herein.

(Code 1998, § 3-7-4(part); Ord. No. 011-2004, 3-23-2004; Ord. No. 002-2013, 4-9-2013; Ord. No. 009-2014, 1-12-2015)

**3-7-5 Prohibited Locations For The Sale Of Alcohol**

No license shall be granted to sell alcohol unless it strictly complies with the Utah Alcoholic Beverage Control Act found at U.C.A. 1953, § 32B-1-202, or other relevant provisions.

(Code 1998, § 3-7-5; Ord. No. 011-2004, 3-23-2004; Ord. No. 002-2013, 4-9-2013; Ord. No. 009-2014, 1-12-2015)

**3-7-6 License Required**

It shall be unlawful to sell alcohol, beer, heavy beer, liquor, or wine without a license from the city.

(Code 1998, § 3-7-6; Ord. No. 011-2004, 3-23-2004; Ord. No. 002-2013, 4-9-2013; Ord. No. 009-2014, 1-12-2015)

**3-7-7 Class "A" Beer License**

A Class "A" beer license allows the licensee to sell beer, not heavy beer, on the premises described in the license in original containers for consumption off the premises.

(Code 1998, § 3-7-7; Ord. No. 011-2004, 3-23-2004; Ord. No. 002-2013, 4-9-2013; Ord. No. 009-2014, 1-12-2015)

**State law reference**—Local license for sale of beer for off-premises consumption authorized, U.C.A. 1953, § 32B-7-201.

**3-7-8 Class "B" Limited Restaurant Alcohol License**

A Class "B" alcohol license allows the licensee to sell beer, heavy beer, and wine on the premises described in the license for on-premises consumption. Only restaurants where a variety of foods are prepared and complete meals are served to the general public having adequate culinary fixtures for food preparation and indoor dining accommodations, and at which food sales constitute 70 percent of the gross sales receipts of the licensee's restaurant may be considered for a Class "B" alcohol license. Further, no more than 30 percent of the retail floor area of the licensee's restaurant may be utilized as a bar.

(Code 1998, § 3-7-8; Ord. No. 011-2004, 3-23-2004; Ord. No. 002-2013, 4-9-2013; Ord. No. 009-2014, 1-12-2015)

**State law reference**—Limited-service restaurant license, U.C.A. 1953, § 32B-6-301 et seq.

## 3-7-9 Class "C" Full-Service Restaurant Alcohol License

A Class "C" full-service restaurant alcohol license allows the licensee to sell beer, heavy beer, liquor, and wine on the premises described in the license for on-premises consumption. Only restaurants where a variety of foods are prepared and complete meals are served to the general public having adequate culinary fixtures for food preparation and indoor dining accommodations, and at which food sales constitute 70 percent of the gross sales receipts of the licensee's restaurant may be considered for a Class "C" alcohol license. Further, no more than 30 percent of the retail floor area of the licensee's restaurant may be utilized as a bar.

(Code 1998, § 3-7-9; Ord. No. 011-2004, 3-23-2004; Ord. No. 002-2013, 4-9-2013; Ord. No. 009-2014, 1-12-2015)

**State law reference**—Full-service restaurant license, U.C.A. 1953, § 32B-6-201 et seq.

## 3-7-10 License Fees

A. There shall be a nonrefundable fee in the amount established by resolution, which shall be paid at the time of application for an alcohol license which shall be applied towards the fee for the alcohol license.

B. The fee for an alcohol license, which shall be in addition to any other fee or charge imposed by this Code, shall be:

    1. Class "A" beer license, as established by resolution.

    2. Class "B" limited restaurant alcohol license as established by resolution.

    3. Class "C" full-service restaurant alcohol license as established by resolution.

(Code 1998, § 3-7-10; Ord. No. 011-2004, 3-23-2004; Ord. No. 002-2013, 4-9-2013; Ord. No. 009-2014, 1-12-2015)

### 3-7-11 Disqualifications Of An Alcohol License

No alcohol license of any class shall be issued to any manager or supervisory employee convicted of a felony as defined by the Utah Alcoholic Beverage Control Act (U.C.A. 1953, § 32B-1-101 et seq.).

(Code 1998, § 3-7-11; Ord. No. 011-2004, 3-23-2004; Ord. No. 002-2013, 4-9-2013; Ord. No. 009-2014, 1-12-2015)

### 3-7-12 Procedure To Obtain A License

Applicants for an alcohol license shall submit a properly completed application form and the appropriate licensing fee to the business license department. The application shall be forwarded to the court clerk, who shall endorse thereon whether the applicant or owner has been convicted of the disqualifying acts described above in this chapter. In determining whether any such disqualifying act has been committed, a criminal history check of the applicant shall be completed, including a state criminal history check. A material error or omission in the information given on the application form may be the basis for disapproving an application, and no application disapproved for such reason shall be reconsidered for six months. If the endorsement of the court clerk does not show the commission of a disqualifying act, and the issuance of the requested license is otherwise consistent with applicable law, the licensing clerk shall approve the application and a license shall be issued. If the endorsement of the court clerk shows the commission of a disqualifying act, or if the issuance of the requested license would otherwise violate applicable law, the licensing clerk shall disapprove the application and a license shall not be issued.

(Code 1998, § 3-7-12; Ord. No. 011-2004, 3-23-2004; Ord. No. 002-2013, 4-9-2013; Ord. No. 009-2014, 1-12-2015)

### 3-7-13 Permit From The Bear River District Health Department

An applicant may be required to procure from the Bear River District Health Department a permit which shall show that the premises to be licensed are in a sanitary condition and that the equipment used in the storage, distribution, or sale of alcohol complies with all health regulations of the city and of the state; and on recommendation of the health department, any license issued may be revoked or suspended when any reasonable order, rule, or regulation of the health department has not been complied with.

(Code 1998, § 3-7-13; Ord. No. 011-2004, 3-23-2004; Ord. No. 002-2013, 4-9-2013; Ord. No. 009-2014, 1-12-2015)

### 3-7-14 Bond

An applicant for an alcohol license shall file a cash or corporate bond in the amount of $1,000.00 guaranteeing faithful performance of the provisions of this chapter in favor of the city. In the event a license is revoked for a violation of the provisions of this chapter, the bond shall be forfeited (without any showing of damage or loss) to the city.

(Code 1998, § 3-7-14; Ord. No. 011-2004, 3-23-2004; Ord. No. 002-2013, 4-9-2013; Ord. No. 009-2014, 1-12-2015)

## 3-7-15 Terms And Conditions Of License

All alcohol licenses shall be for the term of one year, from July 1 to June 30, unless sooner revoked. Licenses issued under this chapter shall not be transferable. An alcohol license may be revoked for any violation of this chapter demonstrated at an administrative hearing before the city council. A license issued pursuant to this chapter shall be displayed at all times on the licensed premises in a place readily visible to the public. License fees shall not be refunded, except in the event the state denies a state license to sell alcohol. In such event and upon request by the applicant, any license fee paid shall be refunded except for the nonrefundable fee required by PCC 3-7-10.

(Code 1998, § 3-7-15; Ord. No. 011-2004, 3-23-2004; Ord. No. 002-2013, 4-9-2013; Ord. No. 009-2014, 1-12-2015)

## 3-7-16 Regulations

It shall be unlawful and shall constitute an offense of strict liability to violate any of the following, any one of which shall constitute a sufficient basis for revoking an alcohol license:

A. Alcohol shall not be sold or dispensed in any billiards hall, bowling alley, dance hall, sexually oriented business, or theater or within 200 feet of any church, school, public library, public playground, or public park measured in a straight line from the nearest public entrance of the proposed outlet to the nearest property boundary of the school, public library, public playground, or public park.

B. Alcohol shall not be sold or dispensed from any drive-up window.

C. Alcohol shall not be sold by or to any intoxicated person or any person less than 21 years of age.

D. No person shall obtain an alcohol license who has committed one or more of the disqualifying acts described PCC 3-7-11.

E. No person shall make any false or misleading statement on an application for an alcohol license.

F. No alcohol license of any class shall be issued to any manager or supervisory employee convicted of a felony as defined by the Utah Alcoholic Beverage Control Act (U.C.A. 1953, § 32B-1-101 et seq.).

G. No owner, manager, or employee at a licensed premises shall consume or be under the influence of alcohol while on duty (including breaks).

H. Days and hours of sale:

1. A Class "A" beer license has no restriction for days or hours of sale.

2. A Class "B" limited restaurant alcohol license and a Class "C" full-service restaurant alcohol license are restricted by the Utah Alcoholic Beverage Control Act U.C.A. 1953, § 32B-1-101 et seq.) for hours of sale. No restriction on days of sale shall apply.

I. All licensed premises shall be subject to inspection by any officer, agent, or peace officer of the city at any time during open business hours.

(Code 1998, § 3-7-16; Ord. No. 011-2004, 3-23-2004; Ord. No. 002-2013, 4-9-2013; Ord. No. 009-2014, 1-12-2015)

### 3-7-17 Acknowledgement Of Compliance With State Code

It is required that each applicant acknowledge that they have read and understand the Utah Alcoholic Beverage Control Act (U.C.A. 1953, § 32B-1-101 et seq.) as it relates to the applicant's particular business upon the applicant's alcoholic beverage license. The city shall in no way be held liable for issuing a license under this chapter which violates state code. Any license so issued shall be forfeited immediately upon the notification of the violation of any state code provision found in U.C.A. 1953, title 32B or provision of this Code.

(Code 1998, § 3-7-17; Ord. No. 011-2004, 3-23-2004; Ord. No. 002-2013, 4-9-2013; Ord. No. 009-2014, 1-12-2015)

## CHAPTER 3-8 RESIDENTIAL SOLICITATION

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**State law reference**—Charitable solicitations Act, U.C.A. 1953, § 13-22-1 et seq.

## 3-8-1 Purpose

A. Residents of the city have an inalienable interest in their personal safety, well-being, and privacy in their residences, as well as their ability to provide or receive information regarding matters of personal belief, political or charitable activities, and goods and services lawfully in commerce. The city has a substantial interest in protecting the well-being, tranquility, personal safety, and privacy of its citizens, which includes the ability to protect citizens from unwanted intrusions upon residential property. The city also has a substantial interest in protecting citizens from fraud or otherwise unfair consumer sales practices as well as criminal activity.

B. There must be a balance between these substantial interests of the city and its citizens, and the effect of the regulations in this chapter on the rights of those who are regulated. Based on the collective experiences of city officials derived from regulating business activity, protecting persons and property from criminal conduct, responding to the inquiries of citizens regarding door-to-door solicitation, the experience of its law enforcement officers and those affected by door-to-door canvassing and solicitation, as well as judicial decisions outlining the boundaries of constitutional protections afforded and denied persons seeking to engage in door-to-door solicitation, the city adopts this chapter to promote the city's substantial interests in:

    1. Respecting citizen's decisions regarding privacy in their residences;
    2. Protecting persons from criminal conduct;
    3. Providing equal opportunity to advocate for and against religious belief, political position, or charitable activities; and
    4. Permitting truthful and nonmisleading door-to-door solicitation regarding lawful goods or services in intrastate or interstate commerce.

C. The city finds that the procedures, rules and regulations set forth in this chapter are narrowly tailored to preserve and protect the city interests referred to herein while at the same time balancing the rights of those regulated.

(Code 1998, § 3-8-1; Ord. No. 002-2007, 1-9-2007; Ord. No. 003-2009, 5-26-2009)

**3-8-2 No Other City License Or Approval Required**

A. Registered solicitors and persons exempt from registration need not apply for, nor obtain, any other license, permit, or registration from the city to engage in door-to-door solicitation.

B. Any business licensed by the city under another city ordinance that uses employees, independent contractors, or agents for door-to-door solicitation in an effort to provide any tangible or intangible benefit to the Business, shall be required to have such solicitors obtain a certificate, unless otherwise exempt from registration.

C. Those responsible persons or entities associated with registered solicitors need not apply for, nor obtain, any other license, permit, or registration from the city, provided they do not establish a temporary or fixed place of business in the city.

D. Nothing herein is intended to interfere with or supplant any other requirement of federal, state, or other local government law regarding any license, permit, or certificate that a registered solicitor is otherwise required to have or maintain.

(Code 1998, § 3-8-2; Ord. No. 002-2007, 1-9-2007; Ord. No. 003-2009, 5-26-2009)

**3-8-3 (Reserved For Future Use)**

**3-8-4 Exemptions From Chapter**

The following are exempt from registration under this chapter:

A. Persons specifically invited to a residence by a competent individual prior to the time of the person's arrival at the residence;

B. Persons whose license, permit, certificate or registration with the state permits them to engage in door-to-door solicitation to offer goods or services to an occupant of the residence;

C. Persons delivering goods to a residence pursuant to a previously made order, or persons providing services at a residence pursuant to a previously made request by a competent individual;

D. Persons advocating or disseminating information for, against, or in conjunction with, any religious belief, or political position regardless of whether goods, services, or any other consideration is offered or given, with or without any form of commitment, contribution, donation, pledge, or purchase; and

E. Persons representing a charitable organization. The charitable exemption shall apply to students soliciting contributions to finance extracurricular social, athletic,

artistic, scientific or cultural programs, provided that the solicitation has been approved in writing by the school administration, and that such student solicitors carry current picture student identification from the educational institution for which they are soliciting.

F. Those persons exempt from registration are not exempt from the duties and prohibitions outlined in PCC 3-8-17, 3-8-18 and 3-8-19 while advocating or soliciting.

(Code 1998, § 3-8-4; Ord. No. 002-2007, 1-9-2007; Ord. No. 003-2009, 5-26-2009)

**3-8-5 Solicitation Prohibited**

Unless otherwise authorized, permitted, or exempted pursuant to the terms and provisions of this chapter, the practice of being in and upon a private residence within the city by solicitors, for the purpose of home solicitation sales or to provide goods or services, is prohibited and is punishable as set forth in this chapter.

(Code 1998, § 3-8-5; Ord. No. 002-2007, 1-9-2007; Ord. No. 003-2009, 5-26-2009)

**3-8-6 Registration Of Solicitors**

Unless otherwise exempt under this chapter, all persons desiring to engage in door-to-door solicitation within the city, prior to doing so, shall submit a completed application to the licensing officer and obtain a certificate.

(Code 1998, § 3-8-6; Ord. No. 002-2007, 1-9-2007; Ord. No. 003-2009, 5-26-2009)

**3-8-7 Application Form**

The licensing officer shall provide a standard application form for use for the registration of solicitors. Upon request to the licensing officer, or as otherwise provided, any person or entity may obtain in person, by mail, or facsimile, a copy of this application form. Each application form shall require disclosure and reporting by the applicant of the following information, documentation, and fee:

A. *Review of written disclosures*. An affirmation that the applicant has received and reviewed the disclosure information required by this chapter.

B. *Contact information*.

1. Applicant's true, correct and legal name, including any former names or aliases used during the last ten years;

2. Applicant's telephone number, home address and mailing address, if different;

3. If different from the applicant, the name, address, and telephone number

of the responsible person or entity; and

4. The address by which all notices to the applicant required under this chapter are to be sent.

C. *Proof of identity*. An in-person verification by the licensing officer of the applicant's true identity by use of any of the following which bear a photograph of said applicant:

1. A valid driver's license issued by any state;
2. A valid passport issued by the United States;
3. A valid identification card issued by any state;
4. A valid identification issued by a branch of the United States military.

Upon verification of identity, the original identification submitted to establish proof of identity shall be returned to the applicant.

D. *Proof of registration with department of commerce*. The applicant shall provide proof that either the applicant, or the responsible person or entity, has registered with the state department of commerce.

E. *Special events sales tax number*. The applicant shall provide a special events sales tax number for either the applicant, or for the responsible person or entity for which the applicant will be soliciting.

F. *Marketing information*.

1. The goods or services offered by the applicant, including any commonly known, registered or trademarked names;
2. Whether the applicant holds any other licenses, permits, registrations, or other qualifications required by federal or state law to promote, provide, or render advice regarding the offered goods or services.

G. *BCI National Background Check*. The applicant shall provide:

1. An original or a copy of a BCI National Background Check as defined in PCC 1-3-2; and
2. A signed copy of a waiver whereby applicant agrees to allow the city to obtain a name/date of birth BCI National Background Check on applicant for purposes of enforcement of this chapter.

H. *Responses to questions regarding disqualifying status*. The applicant shall be required to affirm or deny each of the following statements on the application form:

1. Has the applicant been criminally convicted of:

a. Felony homicide;

b. Physically abusing, sexually abusing, or exploiting a minor;

c. The sale or distribution of controlled substances; or

d. Sexual assault of any kind;

2. Are any criminal charges currently pending against the applicant for:

a. Felony homicide;

b. Physically abusing, sexually abusing, or exploiting a minor;

c. The sale or distribution of controlled substances; or

d. Sexual assault of any kind;

3. Has the applicant been criminally convicted of a felony within the last ten years;

4. Has the applicant been incarcerated in a federal or state prison within the past five years;

5. Has the applicant been criminally convicted of a misdemeanor within the past five years involving a crime of:

a. Moral turpitude; or

b. Violent or aggravated conduct involving persons or property;

6. Has a final civil judgment been entered against the applicant within the last five years indicating that:

a. The applicant had either engaged in fraud, or intentional misrepresentation; or

b. That a debt of the applicant was nondischargeable in bankruptcy pursuant to 11 USC 523(a)(2), (a)(4), (a)(6), or (a)(19);

7. Is the applicant currently on parole or probation to any court, penal institution, or governmental entity, including being under house arrest or subject to a tracking device;

8. Does the applicant have an outstanding arrest warrant from any jurisdiction; or

9. Is the applicant currently subject to a protective order based on physical or sexual abuse issued by a court of competent jurisdiction.

l. *Fee*. The applicant shall pay such fees as determined applicable by the city, which shall not exceed the reasonable cost of processing the application and

issuing the certificate and/or identification badge.

J. *Execution of application*. The applicant shall execute the application form, stating upon oath or affirmation, under penalty of perjury, that based on the present knowledge and belief of the applicant, the information provided is complete, truthful and accurate.

(Code 1998, § 3-8-7; Ord. No. 002-2007, 1-9-2007; Ord. No. 003-2009, 5-26-2009)

**3-8-8 Written Disclosures**

The application form shall be accompanied by written disclosures notifying the applicant of the following:

A. The applicant's submission of the application authorizes the city to verify information submitted with the completed application, including:
    1. The applicant's address;
    2. The applicant's and/or responsible person or entity's state tax identification and special use tax numbers, if any;
    3. The validity of the applicant's proof of identity;

B. The city may consult any publicly available sources for information on the applicant, including, but not limited, to databases for any outstanding warrants, protective orders, or civil judgments;

C. Establishing proof of identity is required before registration is allowed;

D. Identification of the fee amount that must be submitted by applicant with a completed application;

E. The applicant must submit a BCI background check with a completed application;

F. To the extent permitted by state and/or federal law, the applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection;

G. The city will maintain copies of the applicant's application form, proof of identity, and identification badge. These copies will become public records available for inspection on demand at the city offices whether or not a certificate is denied, granted, or renewed;

H. The criteria for disqualifying status, denial, or suspension of a certificate under the provisions of this chapter;

I. That a request for a temporary certificate will be granted or denied the same business day that a completed application is submitted.

(Code 1998, § 3-8-8; Ord. No. 002-2007, 1-9-2007; Ord. No. 003-2009, 5-26-2009)

**3-8-9 When Registration Begins**

The licensing officer shall not begin the registration process unless the applicant has submitted a completed application. The original identification submitted to establish proof of identity shall be returned after the licensing officer verifies the applicant's identity. A copy of the identification may be retained by the licensing officer. If an original BCI national background check is submitted by the applicant, the licensing officer shall make a copy of the BCI and return the original to the applicant.

(Code 1998, § 3-8-9; Ord. No. 002-2007, 1-9-2007; Ord. No. 003-2009, 5-26-2009)

**3-8-10 Issuance Of Certificates**

The licensing officer shall review the completed application submitted by the applicant and issue a certificate in accordance with the following:

A. *Temporary certificate*.

1. A temporary certificate shall be issued to the applicant the same day the completed application is submitted if the completed application is received before 2:00 p.m. A temporary certificate will be issued the following business day for any completed applications submitted after 2:00 p.m. The temporary certificate will allow the applicant to begin door-to-door solicitation upon the following conditions:
    a. Applicant's submission of a completed application;
    b. Applicant's submission of the required fee;
    c. Applicant establishes proof of identity;
    d. The applicant's representations on the application form do not affirmatively show a disqualifying status;
    e. The BCI does not affirmatively show a disqualifying status; and
    f. The applicant has not previously been denied a certificate by the city, or had a certificate revoked for grounds that still constitute a disqualifying status under this chapter.
2. A temporary certificate will automatically expire after 25 calendar days from issuance, or upon grant or denial of an annual certificate, whichever period is shorter.

B. *Annual certificate*. Within 25 calendar days of the issuance of a temporary certificate the city shall:

1. Take any and all actions it deems appropriate to verify the truthfulness and completeness of the information submitted by the applicant, including, but not limited to, those disclosed with the application form.
2. Issue written notice to the applicant and the responsible person or entity, if any, that the applicant either:
    a. Will be issued an annual certificate, eligible for renewal one year from the date of issuance of the temporary certificate; or
    b. Will not be issued an annual certificate for reasons cited in PCC 3-8-14.

C. *Renewal certificate*. An annual certificate shall be valid for one year from the date of issuance of the temporary certificate and shall expire at midnight on the anniversary date of issuance. Any annual certificate that is not suspended, revoked, or expired may be renewed upon the request of the registered solicitor and the submission of a new completed application and payment of the fee, unless any of the conditions for the denial, suspension or revocation of a certificate are present as set forth in PCC 3-8-14, or a disqualifying status is present.

(Code 1998, § 3-8-10; Ord. No. 002-2007, 1-9-2007; Ord. No. 003-2009, 5-26-2009)

**3-8-11 Form Of Certificate And Identification Badge**

A. *Certificate form*. Should the licensing officer determine that the applicant is entitled to a certificate, the licensing officer shall issue a certificate to the applicant. The certificate shall list the name of the registered solicitor and the responsible person or entity, if any, and the date on which the certificate expires. The certificate shall be dated and signed by the license officer. The certificate shall be carried by the registered solicitor at all times while soliciting in the city.

B. *Identification badge*. With both the temporary and annual certificates, the city shall issue each registered solicitor an identification badge that shall be worn prominently on the registered solicitor's person while soliciting in the city. The identification badge shall bear the name of the city and shall contain:
    1. The name of the registered solicitor;
    2. Address and telephone number of the registered solicitor, or the name, address, and telephone number of the responsible person or entity is provided;
    3. A recent photograph of the registered solicitor; and
    4. The date on which the certificate expires.

(Code 1998, § 3-8-11; Ord. No. 002-2007, 1-9-2007; Ord. No. 003-2009, 5-26-2009)

**3-8-12 Maintenance Of Registry**

The licensing officer shall maintain and make available for public inspection a copy or record of every completed application received and the certificate or written denial issued by the city. The applicant's BCI background check shall remain a confidential, protected, private record not available for public inspection. The licensing officer may furnish to the head of the city's law enforcement agency a listing of all applicants, those denied, and those issued a certificate.

(Code 1998, § 3-8-12; Ord. No. 002-2007, 1-9-2007; Ord. No. 003-2009, 5-26-2009)

**3-8-13 Nontransferability Of Certificates**

Certificates shall be issued only in the name of the applicant and shall list the responsible party or entity, if any. The certificate shall be nontransferable. A registered solicitor desiring to facilitate or attempt to facilitate home solicitation sales with different (a) goods or services; or (b) responsible person or entity, from those designated in the originally submitted completed application, shall submit a written change request to the licensing officer. A new certificate based on the amended information shall issue for the balance of time remaining on the solicitor's previous certificate before the amendment was filed. Before the new certificate is given to the registered solicitor, the registered solicitor shall obtain a revised identification badge from the city, after payment of the fee for the identification badge.

(Code 1998, § 3-8-13; Ord. No. 002-2007, 1-9-2007; Ord. No. 003-2009, 5-26-2009)

**3-8-14 Denial, Suspension Or Revocation Of A Certificate Of Registration**

A. *Denial*. Upon review, the licensing officer shall refuse to issue a certificate to an applicant for any of the following reasons:

1. *Denial of temporary certificate*.

a. The application form is not complete;

b. The applicant fails to:

(1) Establish proof of identity;

(2) Provide a BCI; or

(3) Pay the fees;

c. The completed application or BCI indicates that the applicant has a disqualifying status; or

d. The applicant has previously been denied a certificate by the city

or has had a certificate revoked for grounds that still constitute a disqualifying status under this chapter.

2. *Denial of annual certificate*.

    a. The information submitted by the applicant at the time of the granting of the temporary certificate is found to be incomplete or incorrect;

    b. Since the submission of the completed application, the applicant is subject to a previously undisclosed or unknown disqualifying status;

    c. Failure to complete payment of the fees;

    d. Since the submission of the application, the city has received a substantiated report regarding the past or present conduct of the applicant;

    e. Since the submission of the application, the city or other governmental entity has either criminally convicted or obtained a civil injunction against the applicant for violating this chapter or similar federal, state, or municipal laws in a manner rising to the level of a disqualifying status; or

    f. Since the submission of the application, a final civil judgment has been entered against the applicant indicating that:

        (1) The applicant had either engaged in fraud, or intentional misrepresentation; or

        (2) That a debt of the applicant was nondischargeable in bankruptcy pursuant to 11 USC 523(a)(2), (a)(4), (a)(6), or (a)(19).

3. *Denial of annual certificate renewal*.

    a. The information submitted by the applicant when seeking renewal of a certificate is found to be incomplete or incorrect;

    b. Since the submission of the renewal application, the applicant is subject to a previously undisclosed or unknown disqualifying status;

    c. Failure to complete payment of the fees;

    d. Since the submission of the application or granting of a certificate, the city has received a substantiated report regarding the past or present conduct of the solicitor;

e. The city or other governmental entity has either criminally convicted or obtained a civil injunction against the applicant for violating this chapter or similar federal, state, or municipal laws in a manner rising to the level of a disqualifying status; or

f. Since the submission of the application, a final civil judgment has been entered against the applicant indicating that:

(1) The applicant had either engaged in fraud, or intentional misrepresentation; or

(2) That a debt of the applicant was nondischargeable in bankruptcy pursuant to 11 USC 523(a)(2), (a)(4), (a)(6), or (a)(19).

B. *Suspension or revocation*. The city shall either suspend or revoke a certificate when any of the reasons warranting the denial of a certificate occurs.

C. *Notice of denial or suspension*. Upon determination of the licensing officer to deny an applicant's completed application or to suspend a registered solicitor's certificate, the city shall cause written notice to be sent to the applicant or registered solicitor by the method indicated in the completed application. The notice shall specify the grounds for the denial or suspension, the documentation or information the city relied on to make the decision, the availability of the documentation for review by applicant upon one business day's notice to the city, and the date upon which the denial or suspension of the certificate shall take effect. It shall further state that the applicant or registered solicitor shall have ten business days from the receipt of the notice of denial or suspension to appeal the same. The denial or suspension of the certificate shall be effective no sooner than two calendar days from the date the notice is sent, unless that suspension is because of exigent circumstances in which case, the suspension is effective immediately. The denial or suspension shall remain effective unless and until the order is rescinded, overturned on appeal, or determined by a court to be contrary to equity or law. Failure to appeal the suspension of a certificate automatically results in its revocation.

(Code 1998, § 3-8-14; Ord. No. 002-2007, 1-9-2007; Ord. No. 003-2009, 5-26-2009)

**3-8-15 Appeal**

An applicant or registered solicitor whose certificate has been denied or suspended shall have the right to appeal to the city council or its designee. Any appeal must be submitted by either the applicant, the responsible person or entity, or legal counsel for either who documents the relationship with the applicant or responsible person or entity; or is licensed or authorized by the state to do so and makes the assertion of an agency relationship. The following procedures and requirements shall apply:

A. Any appeal must be submitted in writing to the city recorder with a copy to the license officer within ten business days of the decision from which the appeal is taken. Such appeal shall describe in detail the nature of the appeal, the action complained of and the grounds for appeal.

B. Upon request of the applicant or registered solicitor, within one business day, the city will make available any information upon which it relied in making the determination to either deny or suspend the certificate.

C. The appeals officer shall review, de novo, all written information submitted by the applicant or registered solicitor to the licensing officer, any additional information relied upon by the licensing officer as the basis for denial, suspension or revocation, and any additional information supplied by the city, applicant or registered solicitor. Any additional information submitted by any party to the appeals officer shall be simultaneously submitted to the opposing party. If desired, any party shall have three business days to submit rebuttal documentation to the appeals officer regarding the additional information submitted by the opposing party.

D. The appeals officer will render a decision no later than 15 calendar days from the date the appeal was taken, unless an extension of time is agreed upon by the parties. In the event that any party submits rebuttal information as allowed in subsection C of this section, the 15 calendar days shall be extended to include the additional three days for rebuttal.

    1. The denial or suspension of the certificate shall be reversed by the appeals officer if upon review of the written appeal and information submitted, the appeals officer finds that the licensing officer made a material mistake of law or fact in denying or suspending the applicant or registered solicitor's certificate.

    2. If the written appeal and information submitted indicates that the licensing officer properly denied or suspended the certificate of the applicant or registered solicitor, the denial or suspension of the certificate shall be affirmed and constitute a determination that the suspended certificate is revoked.

    3. The decision of the appeals officer shall be delivered to the applicant or registered solicitor by the means designated in the completed application, or as otherwise agreed upon when the appeal was filed.

E. After the ruling of the appeals officer, the applicant or solicitor is deemed to have exhausted all administrative remedies with the city.

F. Nothing herein shall impede or interfere with the applicant's, solicitor's, or city's right to seek relief in a court of competent jurisdiction.

(Code 1998, § 3-8-15; Ord. No. 002-2007, 1-9-2007; Ord. No. 003-2009, 5-26-2009)

## 3-8-16 Deceptive Soliciting Practices Prohibited

A. No solicitor shall intentionally make any materially false or fraudulent statement in the course of soliciting.

B. A solicitor shall immediately disclose to the consumer during face-to-face solicitation;

1. The name of the solicitor;
2. The name and address of the entity with whom the solicitor is associated; and
3. The purpose of the solicitor's contact with the person and/or competent individual. This requirement may be satisfied through the use of the badge and an informational flyer.

C. No solicitor shall use a fictitious name, an alias, or any name other than the solicitor's true and correct name.

D. No solicitor shall represent directly or by implication that the granting of a certificate of registration implies any endorsement by the city of the solicitor's goods or services or of the individual solicitor.

(Code 1998, § 3-8-16; Ord. No. 002-2007, 1-9-2007; Ord. No. 003-2009, 5-26-2009)

## 3-8-17 No Solicitation Notice

A. Any occupant of a residence may give notice of a desire to refuse solicitors by displaying a no solicitation sign which shall be posted on or near the main entrance door or on or near the property line adjacent to the sidewalk leading to the residence.

B. The display of such sign or placard shall be deemed to constitute notice to any solicitor that the inhabitant of the residence does not desire to receive and/or does not invite solicitors.

C. It shall be the responsibility of the solicitor to check each residence for the presence of any such notice.

D. The provisions of this section shall apply also to solicitors who are exempt from registration pursuant to the provisions of this chapter.

(Code 1998, § 3-8-17; Ord. No. 002-2007, 1-9-2007; Ord. No. 003-2009, 5-26-2009)

## 3-8-18 Duties Of Solicitors

A. Every person soliciting or advocating shall check each residence for any "no

soliciting" sign or placard or any other notice or sign notifying a solicitor not to solicit on the premises, such as, but not limited to, no solicitation signs. If such sign or placard is posted such solicitor shall desist from any efforts to solicit at the residence or dwelling and shall immediately depart from such property. Possession of a certificate of registration does not in any way relieve any solicitor of this duty.

B. It is a violation of this chapter for any person soliciting or advocating to knock on the door, ring the doorbell, or in any other manner attempt to attract the attention of an occupant of a residence that bears a no solicitation sign or similar sign or placard for the purpose of engaging in or attempting to engage in advocating, a home solicitation sale, door-to-door soliciting, or soliciting.

C. It is a violation of this chapter for any solicitor through ruse, deception, or fraudulent concealment of a purpose to solicit, to take action calculated to secure an audience with an occupant at a residence.

D. Any solicitor who is at any time asked by an occupant of a residence or dwelling to leave shall immediately and peacefully depart.

E. The solicitor shall not intentionally or recklessly make any physical contact with, or touch another person without the person's consent.

F. The solicitor shall not follow a person into a residence without their explicit consent.

G. The solicitor shall not continue repeated soliciting after a person and/or competent individual has communicated clearly and unequivocally their lack of interest in the subject, goods or services of the solicitor.

H. The solicitor shall not use obscene language or gestures.

(Code 1998, § 3-8-18; Ord. No. 002-2007, 1-9-2007; Ord. No. 003-2009, 5-26-2009)

**3-8-19 Time Of Day Restrictions**

It shall be unlawful for any person, whether licensed or not, to solicit at a residence before 9:00 a.m. or after 9:00 p.m. Mountain Time, unless the solicitor has expressed prior permission from the resident to do so.

(Code 1998, § 3-8-19; Ord. No. 002-2007, 1-9-2007; Ord. No. 003-2009, 5-26-2009)

**3-8-20 Buyer's Right To Cancel**

In any home solicitation sale, unless the buyer requests the solicitor to provide goods or services without delay in an emergency, the seller or solicitor shall present to the buyer and obtain buyer's signature to a written statement which informs the buyer of the right to cancel within the third business day after signing an agreement to purchase. Such notice of buyer's right to cancel shall be in the form required by U.C.A. 1953, § 70C-5-103, or a

current version thereof or any state or federal law modifying or amending such provision.

(Code 1998, § 3-8-20; Ord. No. 002-2007, 1-9-2007; Ord. No. 003-2009, 5-26-2009)

### 3-8-21 Penalties

Any person who violates any term or provision of this chapter shall be guilty of a Class B misdemeanor.

(Code 1998, § 3-8-21; Ord. No. 002-2007, 1-9-2007; Ord. No. 003-2009, 5-26-2009)

## CHAPTER 3-9 SEXUALLY ORIENTED BUSINESSES


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**State law reference**—Regulation of sexually oriented businesses, U.C.A. 1953, § 10-8-41.5.

### 3-9-1 Purpose

The purpose of this chapter is to regulate sexually oriented businesses in order to promote the health, safety, morals, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent deleterious secondary effects of sexually oriented businesses within the city. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this chapter to restrict or deny

access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene or indecent material.

(Code 1998, § 3-9-1; Ord. No. 004-2008, 3-13-2008)

**3-9-2 (Reserved For Future Use)**

**3-9-3 Classification**

The classifications for sexually oriented businesses shall be as follows:

A. Adult bookstore or adult video store;

B. Adult cabaret;

C. Adult motel;

D. Adult motion picture theater;

E. Semi-nude model studio;

F. Sexual device shop; or

G. Sexual encounter center.

(Code 1998, § 3-9-3; Ord. No. 004-2008, 3-13-2008)

**3-9-4 License Required**

A. It shall be unlawful for any person to operate a sexually oriented business in the city without a valid sexually oriented business license.

B. It shall be unlawful for any person to be an employee, as defined in this chapter, of a sexually oriented business in the city without a valid sexually oriented business employee license.

C. An applicant for a sexually oriented business license or a sexually oriented business employee license shall file in person at the city business license office a complete application made on a form provided by the city. The application shall be signed as required by subsection (E) of this section and shall be notarized. An application shall be considered complete when it contains, for each person required to sign the application, the information and/or items required in subsections (C)(1) through (7) of this section, accompanied by the appropriate fee identified in PCC 3-9-6:

    1. The applicant's full true name and any other names used by the applicant in the preceding five years;

2. Current business address or another mailing address of the applicant;
3. Written proof of age, in the form of a driver's license or a copy of a birth certificate accompanied by a picture identification document issued by a government agency;
4. If the application is for a sexually oriented business license, the business name, location, legal description, mailing address and phone number of the sexually oriented business;
5. If the application is for a sexually oriented business license, the name and business address of the statutory agent or other agent authorized to receive service of process;
6. A statement of whether an applicant has been convicted of or has pled guilty or nolo contendere to a specified criminal activity as defined in PCC 1-3-2, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each as well as the dates of conviction and release from confinement, where applicable; and
7. A statement of whether any sexually oriented business in which an applicant has had an influential interest, has, in the previous five years (and at a time during which the applicant had the influential interest):
    a. Been declared by a court of law to be a nuisance; or
    b. Been subject to a court order of closure or padlocking.
8. The information provided pursuant to subsections (C)(1) through (7) of this section.

D. Shall be supplemented in writing by certified mail, return receipt requested, to the city within ten working days of a change of circumstances which renders the information originally submitted false or incomplete.

E. An application for a sexually oriented business license shall be accompanied by a legal description of the property where the business is located and a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches. applicants who are required to comply with PCC 3-9-14 and 3-9-18 shall submit a diagram indicating that the interior configuration meets the requirements of those sections.

F. If a person who wishes to operate a sexually oriented business is an individual, the person shall sign the application for a license as the applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each person with an influential interest in the business shall sign the application

for a license as the applicant. Each applicant shall be qualified under PCC 3-9-5 and each applicant shall be considered a licensee if a license is granted.

G. The information provided by an applicant in connection with an application for a license under this chapter shall be maintained by the office of the city on a confidential basis, and such information may be disclosed only as may be required by law or court order, and only to the extent required by law or court order.

(Code 1998, § 3-9-4; Ord. No. 004-2008, 3-13-2008)

**3-9-5 Issuance Of License**

A. Upon the filing of a complete application under PCC 3-9-4(C) for a sexually oriented business license, the city shall immediately issue a temporary license to the applicant, which temporary license shall expire upon a final decision of the city to deny or grant a business license. Within 20 days of the filing date of a complete sexually oriented business license application, the city shall issue a business license to the applicant or issue to the applicant a letter of intent to deny the application. The city shall issue a license unless:

1. An applicant is less than 18 years of age;
2. An applicant has failed to provide information required by PCC 3-9-4 for issuance of a license or has falsely answered a question or request for information on the application form;
3. The license application fee required by PCC 3-9-6 has not been paid;
4. The sexually oriented business does not comply with the interior configuration requirements of this chapter or does not comply with locational requirements set forth in PCC title 10;
5. Any sexually oriented business in which the applicant has had an influential interest, has in the previous five years (and at a time during which the applicant had the influential interest):
    a. Been declared by a court of law to be a nuisance; or
    b. Been subject to an order of closure or padlocking; or:
        (1) An applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity as defined in this chapter.
        (2) Upon the filing of a complete application under PCC 3-9-4(C) for a sexually oriented business employee license, the city shall immediately issue a temporary license to the applicant, which temporary license shall expire upon the final decision of the city to deny or grant a business

license. Within 20 days of the filing date of a complete sexually oriented business employee license application, the city shall either issue a business license or issue a written notice of intent to deny a license to the applicant. The city administrator shall approve the issuance of a license unless:

(A) The applicant is less than 18 years of age;

(B) The applicant has failed to provide information as required by PCC 3-9-4 for issuance of a license or has falsely answered a question or request for information on the application form;

(C) The license application fee required by PCC 3-9-6 has not been paid;

(D) Any sexually oriented business in which the applicant has had an influential interest, has in the previous five years (and at a time during which the applicant had the influential interest):

(a) Been declared by a court of law to be a nuisance; or

(b) Been subject to an order of closure or padlocking; or

(E) The applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity as defined in this chapter.

(3) The license, if granted, shall state on its face the name of the person to whom it is granted, the number of the license issued to the licensee, the expiration date, and, if the license is for a sexually oriented business, the address of the sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be read at any time. A sexually oriented business employee shall have possession of the employee's license on the employee's person or keep the license on the premises where the licensee is then working or performing.

(Code 1998, § 3-9-5; Ord. No. 004-2008, 3-13-2008)

## 3-9-6 Fees

The initial license and annual renewal fees for sexually oriented business licenses and sexually oriented business employee licenses shall be as shown on the consolidated fee schedule adopted by the municipal council.

(Code 1998, § 3-9-6; Ord. No. 004-2008, 3-13-2008)

## 3-9-7 Inspection

A. A sexually oriented business and any sexually oriented business employee shall permit the city manager's designee to inspect, from time to time on an occasional basis, the portions of the sexually oriented business premises where customers are permitted, for the purpose of ensuring compliance with applicable requirements of this chapter, during those times when the sexually oriented business is occupied by customers or is open to the public. This section shall be narrowly construed by the city to authorize reasonable inspections of the licensed premises pursuant to this chapter, but not to authorize a harassing or excessive pattern of inspections.

B. The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

(Code 1998, § 3-9-7; Ord. No. 004-2008, 3-13-2008)

## 3-9-8 Expiration Of License

A. Except for a temporary license or as otherwise provided in this section, the term of a license shall be as provided in PCC 3-1-8, unless suspended or revoked.

B. A license may be renewed only by submitting an application as provided in PCC 3-9-4 and paying the fee required by PCC 3-9-6.

C. Application for renewal of a license should be made at least 90 days before the expiration date pursuant to the procedures set forth in PCC 3-9-4. When made less than 90 days before the expiration date, the expiration of the license shall not be affected.

(Code 1998, § 3-9-8; Ord. No. 004-2008, 3-13-2008)

## 3-9-9 Suspension

A. If a sexually oriented business licensee knowingly violates or knowingly allows an employee to violate the provisions of this chapter, the city manager's designee shall issue a letter to the licensee indicating the city's intent to suspend the

licensee's sexually oriented business license for a period of up to 30 days.

B. If an employee knowingly violates the provisions of this chapter, the city manager's designee shall issue a letter to the employee indicating the city's intent to suspend the employee's sexually oriented business employee license for a period of up to 30 days.

(Code 1998, § 3-9-9; Ord. No. 004-2008, 3-13-2008)

**3-9-10 Revocation**

A. The city manager's designee shall issue a letter of intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if the licensee knowingly violates a provision of this chapter or has knowingly allowed an employee to violate a provision of this chapter and the licensee's license has been suspended within the previous 12 month period.

B. The city manager's designee shall issue a letter of intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if:

1. The licensee has knowingly given false information in the application for the sexually oriented business license;
2. The licensee has knowingly or recklessly engaged in or allowed possession, use, or sale of controlled substances or alcoholic beverages on the premises;
3. The licensee has knowingly or recklessly engaged in or allowed prostitution on the premises; or
4. The licensee has knowingly or recklessly engaged in or allowed any specified sexual activity to occur in or on the licensed premises.

C. The fact that any relevant conviction is being appealed shall have no effect on the revocation of a license, provided that, if any conviction which serves as a basis of a license revocation is overturned or reversed on appeal, such conviction shall be treated as null and of no effect for revocation purposes.

D. When, after the notice and hearing procedure described in PCC 3-9-11, a license is revoked, such revocation shall continue for one year and the licensee shall not be issued a sexually oriented business license or sexually oriented business employee license for one year from the date revocation becomes effective.

(Code 1998, § 3-9-10; Ord. No. 004-2008, 3-13-2008)

**3-9-11 Hearing; Denial, Revocation, And Suspension; Appeal**

A. When the city manager's designee issues a written notice of intent to deny, suspend, or revoke a license, the city manager's designee shall immediately send such notice, which shall include the specific grounds under this chapter for such action, to the applicant or licensee (respondent) by personal delivery or certified mail. The notice shall be directed to the most current business address or other mailing address on file with the city business license office for the respondent. The notice shall specify a date, not less than ten days nor more than 20 days after the date the notice is issued, on which a hearing officer shall conduct a hearing on the city manager's designee's intent to deny, suspend, or revoke the license.

    1. At the hearing, the respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on the respondent's behalf and cross-examine any of the city manager's designee's witnesses. The city manager's designee shall also be represented by counsel, and shall bear the burden of proving the grounds for denying, suspending, or revoking the license. The hearing shall take no longer than two consecutive days, unless extended at the request of the respondent to meet the requirements of due process and proper administration of justice. The hearing officer shall issue a written decision, including specific reasons for the decision pursuant to this chapter, to the respondent within five days after concluding the hearing.

    2. A decision is to deny, suspend or revoke a license, the decision shall not become effective until 30 days after the decision is rendered. The decision shall include a statement advising the respondent of the right to appeal such decision to a court of competent jurisdiction.

        a. If the hearing officer's decision finds that no grounds exist for denial, suspension, or revocation of the license, the hearing officer shall, contemporaneously with the issuance of the decision, order the city manager's designee to immediately withdraw the intent to deny, suspend, or revoke the license and to notify the respondent in writing by certified mail of such action.

        b. If the respondent is not yet licensed, the city manager's designee shall contemporaneously therewith issue the license to the applicant.

B. If any court action challenging the city manager's designee's or hearing officer's decision is initiated, the city attorney shall prepare and transmit to the court a transcript of the hearing within ten days after receiving written notice of the filing of the court action. The city shall consent to expedited briefing and/or disposition of the action, shall comply with any expedited schedule set by the court, and shall facilitate prompt judicial review of the proceedings.

C. The following shall apply to any sexually oriented business that is in operation as of the effective date of this chapter:

1. Upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin the city's enforcement of the denial, suspension, or revocation, the city shall immediately issue the respondent a provisional license.

2. The provisional license shall allow the respondent to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and shall expire upon the court's entry of judgment on the respondent's appeal or other action to restrain or otherwise enjoin the city's enforcement.

(Code 1998, § 3-9-11; Ord. No. 004-2008, 3-13-2008)

**3-9-12 Transfer Of License**

A licensee shall not transfer the licensee's sexually oriented business license to another person, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated on the license.

(Code 1998, § 3-9-12; Ord. No. 004-2008, 3-13-2008)

**3-9-13 Hours Of Operation**

No sexually oriented business shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day.

(Code 1998, § 3-9-13; Ord. No. 004-2008, 3-13-2008)

**3-9-14 Exhibition Of Sexually Explicit Films Or Videos**

A. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than 350 square feet of floor space, a film, videocassette, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements.

1. Each application for a sexually oriented business license shall contain a diagram of the premises showing the location of each restroom, operator station, viewing room, overhead lighting fixture, video camera and monitor installed for monitoring purposes and shall designate those portions of the premises where customers will not be permitted.

a. Restrooms shall not contain video reproduction equipment.

b. The diagram shall also designate the place where the license will be conspicuously posted, if granted.

c. A professionally prepared diagram in the nature of an architectural drawing shall not be required; however, the top of each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The city manager's designee may waive the foregoing diagram for renewal applications if the applicant presents a previously submitted diagram and certifies that the configuration of the premises has not been altered since it was prepared.

2. It shall be the duty of the operator, and of any employee present on the premises, to ensure no customer is permitted access to any area of the premises which has been designated as an area in which customers will not be permitted in the application filed pursuant to subsection (1)(a) of this section.
3. The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place where customers are permitted access at an illumination of not less than five footcandles as measured at the floor level. The operator and any employee present on the premises shall have the duty to ensure the illumination-described above is maintained at all times when the premises are occupied by customers or open for business.
4. The operator and any employee present on the premises shall have the duty to ensure no sexual activity occurs in or on the licensed premises.
5. The operator shall have the duty to post conspicuous signs in well-lighted entry areas of the business stating all of the following:
    a. Occupancy of viewing rooms is limited to one person;
    b. Sexual activity on the premises is prohibited;
    c. Making of openings between viewing rooms is prohibited;
    d. Violators will be required to leave the premises; and
    e. Violations of subsections (e)(i), (ii) and (iii) of this section are unlawful.
6. The operator shall have the duty to enforce the regulations set forth in subsections (e)(i) through (iv) of this section.
7. The interior of the premises shall be configured to provide an

unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room, but excluding restrooms, to which any customer is permitted access for any purpose.

a. An operator's station shall not exceed 32 square feet of floor area.

b. If the premises have two or more operator's stations designated, then the interior of the premises shall be configured to provide an unobstructed view of each area of the premises to which any customer is permitted access for any purpose from at least one of the operator stations. The view required in this subsection shall be by direct line of sight from an operator's station.

c. The operator shall have the duty to ensure at least one employee is on duty and situated in each operator's station at all times when a customer is on the premises.

d. The operator and any employees present on the premises shall have the duty to ensure the view area specified in this subsection remains unobstructed by any door, curtain, wall, merchandise, display rack or other material or enclosure at all times when a customer is present on the premises.

B. It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

(Code 1998, § 3-9-14; Ord. No. 004-2008, 3-13-2008)

**3-9-15 Loitering, Exterior Lighting, Visibility, And Monitoring Requirements**

A. The operator of a sexually oriented business shall have the duty to:

1. Post conspicuous signs stating that no loitering is permitted on the premises;

2. Designate one or more employees to monitor the activities of persons on the premises by visually inspecting the premises at least once every 90 minutes or inspecting the premises by use of video cameras and monitors; and

3. Provide lighting of the exterior portion of the premises to provide for visual inspection or video monitoring to prohibit loitering. If used, video cameras and monitors shall operate continuously whenever the premises are open for business. Such monitors shall be installed within an operator's station.

B. It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

C. No sexually oriented business licensee or other person shall erect a fence, wall, or other barrier which prevents any portion of a parking lot for employees or customers of the business from being visible from a public right-of-way.

(Code 1998, § 3-9-15; Ord. No. 004-2008, 3-13-2008)

**3-9-16 Penalties And Enforcement**

A. A person who knowingly violates, disobeys, omits, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this chapter shall be guilty of a Class B misdemeanor. Each day a violation is committed, or permitted to continue, shall constitute a separate offense and shall be fined as such.

B. The city attorney is hereby authorized to institute civil proceedings necessary for the enforcement of this chapter to prosecute, restrain, or correct violations hereof. Such proceedings, including injunction, shall be brought in the name of the city.

C. Nothing in this section and no action taken hereunder shall:

1. Prohibit a criminal or administrative proceeding as may be authorized by other provisions of this chapter, this Code, or other law; or

2. Exempt any person violating this chapter, this Code or other law from a penalty which may be incurred.

(Code 1998, § 3-9-16; Ord. No. 004-2008, 3-13-2008)

**3-9-17 (Reserved For Future Use)**

**3-9-18 Prohibited Activities**

A. It is unlawful for a sexually oriented business to knowingly violate the following regulations or to knowingly allow an employee or any other person to violate the following regulations.

1. It shall be a violation of this chapter for a customer, employee, or any other person to knowingly or intentionally, in a sexually oriented business appear in a state of nudity, regardless of whether such public nudity is expressive in nature.

2. It shall be a violation of this chapter for a person to knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition unless the person is an employee who, while semi-nude, remains at least six feet from any customer and on a stage at least 18 inches from the floor in a room of at least 1,000 square feet.

3. It shall be a violation of this chapter for any employee who regularly appears semi-nude in a sexually oriented business to knowingly or

intentionally touch a customer or the clothing of a customer on the premises of a sexually oriented business.

4. It shall be a violation of this chapter for any person to sell, use, or consume alcoholic beverages on the premises of a sexually oriented business.

B. A sign, in a form prescribed by the city manager's designee, summarizing the provisions of subsections (1)(a), (b), (c), and (d) of this section shall be posted near the entrance of a sexually oriented business in a location where it is clearly visible to customers upon entry.

(Code 1998, § 3-9-18; Ord. No. 004-2008, 3-13-2008)

### 3-9-19 Scienter Required To Prove Violation Or Business Licensee Liability

This chapter does not impose strict liability. Unless a culpable mental state is otherwise specified herein a showing of a knowing or reckless mental state is necessary to establish a violation of a provision of this chapter. Notwithstanding anything to the contrary, for the purposes of this chapter, an act by an employee that constitutes grounds for suspension or revocation of that employee's license shall be imputed to the sexually oriented business licensee for purposes of finding a violation of this chapter, or for purposes of license denial, suspension, or revocation, only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.

(Code 1998, § 3-9-19; Ord. No. 004-2008, 3-13-2008)

### 3-9-20 Effect Of City Failure To Act

In the event a city official is required to act or do a thing pursuant to this chapter within a prescribed time and fails to act or do such thing within the time prescribed, said failure shall not prevent the exercise of constitutional rights of an applicant or licensee. If the act required of the city official under this chapter and not completed in the time prescribed includes approval of conditions necessary for approval by the city of an applicant's or licensee's application for a sexually oriented business license or a sexually oriented business employee's license (including a renewal), the license shall be deemed granted and the business or employee shall be allowed to commence operations or employment the day after the deadline for the city's action has passed.

(Code 1998, § 3-9-20; Ord. No. 004-2008, 3-13-2008)

## CHAPTER 3-10 SALE AND EMISSION OF FIREWORKS

3-10-1 Regulation Of Fireworks

3-10-2 License To Sell--Required
3-10-3 License To Sell--Application
3-10-4 General Requirements
3-10-5 Temporary Stands, Trailers And Tents
3-10-6 Restrictions On Discharge
3-10-7 Penalty

**State law references**—County and Municipal Fireworks Act, U.C.A. 1953, § 11-3-1 et seq.; Utah Fireworks Act, U.C.A. 1953, § 53-7-220 et seq.

## 3-10-1 Regulation Of Fireworks

Permitted fireworks will refer to the current state approved Class C common state approved explosives list.

A. *Authority and purpose*.

1. This section is adopted pursuant to the provisions of U.C.A. 1953, § 11-3-8, as amended.
2. The sale, offer to sell, exposure for sale, use, discharge, distribution, or possession of fireworks or pyrotechnics in the city, except as hereinafter provided, is hereby declared to be against the public health, safety, and welfare of the people of the city.

(Code 1998, § 3-10-1; Ord. No. 011-2008, 11-11-2008)

## 3-10-2 License To Sell--Required

No person shall offer for sale or sell at retail any fireworks without having first applied for and received a license from the city and a permit from the city's, or the city's contracted entity's, fire department to do so for each location at which fireworks are sold.

(Code 1998, § 3-10-2; Ord. No. 011-2008, 11-11-2008)

## 3-10-3 License To Sell--Application

A. Except as provided herein, no person shall offer for sale or sell at retail or otherwise unless specifically exempted here from any fireworks other than permitted fireworks without having first applied for and received a license from the city.

B. All applications for a license to sell fireworks shall:

1. Be made in writing accompanied by a fee established by resolution for each outside sales stand and established by resolution for inside sales.

Said fee shall be nonrefundable and shall apply to business operations maintained primarily for the sale of permitted fireworks.

2. Set forth the proposed location of the fireworks stand and the designated zone of said location.
3. Include certificates of insurance evidencing public liability coverage in favor of the applicant in the amount of $1,000,000.00--$3,000,000.00 and designating the city as an additional insured. Said insurance certificate shall include a minimum of $1,000,000.00 products liability coverage.
4. Include a statement that the applicant agrees to comply strictly with the terms of any license granted and to furnish any additional information upon request.
5. Include a copy of the state sales tax license or permit.

C. The license for fireworks shall be displayed together with the sales tax permit in a prominent place readily visible to the public at the sales location. The license shall be made available at the sale site for presentation upon request to any duly authorized public safety official. The city may revoke or suspend the license or confiscate merchandise in the event of the violation of any of the terms of this section or of the minimum rules and regulations for fire and life safety adopted and promulgated by the state fire prevention board.

D. Prior to the issuance of a license, each applicant shall file with the city an approved surety bond made payable to the city in the amount of $150.00 to ensure compliance with the provisions of this section, including, but not limited to, the removal of any sale stand and the cleaning of the site. In the event that licensee does not comply or remove the stand or clean the site, the city may do so, or cause the same to be done by other persons, and the reasonable costs thereof shall be charged against the licensee and the deposit or surety bond.

E. Upon receipt of complete application, the business license administrator shall create a business license for said business and forward the same to the city's, or the city's contracted entity's, fire department, which shall inspect the proposed premises and other compliance items and forthwith approve or deny its permit for the locations involved, if approved, notify the fire marshal, which shall issue the license.

(Code 1998, § 3-10-3; Ord. No. 011-2008, 11-11-2008)

## 3-10-4 General Requirements

A. There shall be no retail sales of permitted fireworks except within a commercial zone.

B. Class C common state approved explosives shall not be sold to any person

under the age of 16 years, unless accompanied by an adult.

C. All retail sales locations shall be equipped with an approved portable fire extinguisher having a rating of at least 2A, and such other fire extinguishers or equipment as may be required by the fire marshal. Such extinguishers must be located at eight-foot intervals for the total length of the stand and readily accessible and in good working order.

D. All sales locations must be approved by the fire marshal and shall be subject to inspection by authorized public safety officials at any time.

E. No person shall be permitted to sleep or cook within 50 feet of any fireworks sales or storage location.

(Code 1998, § 3-10-4; Ord. No. 011-2008, 11-11-2008)

**3-10-5 Temporary Stands, Trailers And Tents**

Temporary stands shall be subject to the following regulations:

A. Stands, trailers or tents shall not be illuminated or heated by any device requiring an open flame or exposed heating elements. All heaters shall be approved by the authority having jurisdiction (AHJ).

(Code 1998, § 3-10-5; Ord. No. 011-2008, 11-11-2008)

**3-10-6 Restrictions On Discharge**

It is unlawful for any person to:

A. Ignite, explode, project, or otherwise fire or use, or permit the ignition, explosion or projection of any fireworks upon or over onto the street or public property or the property of another;

B. Ignite, explode, or otherwise make use of any fireworks within 100 feet of any fireworks stand;

C. Ignite, explode, project or otherwise fire or make use of any fireworks within 20 feet of any residence, dwelling or other structure;

D. No person shall ignite or discharge any fireworks within or throw the same from within a motor vehicle, nor shall any person place or throw any ignited article of fireworks into or at such a motor vehicle, or at or near any person or group of people;

E. The discharge of any type of homemade fireworks is prohibited;

F. The fire marshal is hereby authorized to prohibit the sale or discharge of any fireworks should the fire marshal determine that an unreasonable fire hazard or

personal safety hazard is created by the use and discharge of such fireworks in the circumstances.

(Code 1998, § 3-10-6; Ord. No. 011-2008, 11-11-2008)

**3-10-7 Penalty**

The sale or use of unauthorized fireworks is a Class B misdemeanor. Any person who violates this chapter is guilty of a Class B misdemeanor.

(Code 1998, § 3-10-7; Ord. No. 011-2008, 11-11-2008)

**TITLE 4 PUBLIC HEALTH AND SAFETY**
CHAPTER 4-1 NUISANCES
CHAPTER 4-2 WEEDS
CHAPTER 4-3 GARBAGE AND REFUSE
CHAPTER 4-4 OPEN BURNING
CHAPTER 4-5 LITTER; HANDBILLS
CHAPTER 4-6 GENERAL HEALTH REGULATIONS
CHAPTER 4-7 OFFENSIVE BUSINESSES AND FACILITIES
CHAPTER 4-8 HAZARDOUS MATERIALS
CHAPTER 4-9 NOISE

## CHAPTER 4-1 NUISANCES

4-1-1 Nuisances Defined; Declaration
4-1-2 Nuisances On Property
4-1-3 Abatement Procedure

**State law references**—Nuisance abatement, U.C.A. 1953, § 78B-6-1101 et seq.; general powers relative to nuisances, U.C.A. 1953, § 10-8-60; abatement of weeds, garbage, refuse, and unsightly objects, U.C.A. 1953, § 10-11-1.

### 4-1-1 Nuisances Defined; Declaration

4-1-1-1 (Reserved For Future Use)
4-1-1-2 Author Designated
4-1-1-3 Declaration Of Nuisance
4-1-1-4 Enumeration Of Nuisances
4-1-1-5 Restroom Or Sewer Facilities
4-1-1-6 Restrictions On Blocking Water

#### 4-1-1-1 (Reserved For Future Use)

#### 4-1-1-2 Author Designated

Where a nuisance exists upon property and is the outgrowth of the usual, natural, or necessary use of the property, the landlord or landlord's agent, the tenant or tenant's agent, and all other persons having control of the property on which such nuisance exists shall be deemed to be the authors thereof and shall be equally liable and responsible. Where any such nuisance shall arise from the unusual or unnecessary use of such property or from the business thereon conducted, then the occupants and all other persons contributing to the continuance of such nuisance shall be deemed the authors.

(Code 1977, § 10-312; Code 1998, § 4-1-1-2)

## 4-1-1-3 Declaration Of Nuisance

A. *Made, permitted or allowed*. Every act or condition made, permitted, allowed or continued so as to be a nuisance, as defined in this Code, is hereby declared to be a nuisance and may be abated and punished as hereinafter provided.

B. *Included nuisances*. Nuisances include, but are not limited to:

1. *Befouling culinary water*. Befouling water in any spring, stream, well or water source supplying water for culinary purposes.
2. *Privies, cesspools, septic tanks*. Allowing any privy, vault or cesspool or other individual wastewater disposal system to become a menace to health or a source of odors or contamination to air or water.
3. *Garbage containers, offensive*. Permitting any garbage container to remain on premises when it has become unclean and offensive.
4. *Garbage accumulation*. Allowing vegetable waste, garbage, litter, filth or refuse of any nature to accumulate within or upon any private alley, yard or area.
5. *Manure accumulation*. Permitting the accumulation of manure in any stable, stall, corral, feed yard, kennel or in any other building or area in which any animals are kept.
6. *Slaughterhouses, feed yards*. Permitting any slaughterhouse, market, meat shop, stable, feed yard, or other place or building wherein any animals are slaughtered, kept, fed or sold to remain unclean or in any state or condition detrimental to health or creating a nuisance because of odors, or in which flies or rodents breed.
7. *Discharging offensive water or liquid waste*. Discharging or placing any offensive water, chemical spray, liquid waste, or refuse of any kind into any street, alley, sidewalk, gutter, stream, wash, natural watercourse, ditch, canal, or any vacant lot or which, as the result of continued discharge, will render the place of discharge offensive or likely to become so.
8. *Collecting grease, offensive matter*. Keeping or collecting any stale or putrid grease or other offensive matter.
9. *Flies and mosquitoes*. Having or permitting upon any premises any fly- or mosquito-producing condition.
10. *Ablutions near drinking fountain*. Permitting or performing any ablutions in or near any public drinking fountain.
11. *Boardinghouse or factory, sanitary condition*. Failing to furnish any dwelling house, boardinghouse, or factory or other place of employment

with such privy vaults, water closets, sinks or other facilities as may be required to maintain the same in sanitary condition.

12. *Cleaning privy vaults*. Neglecting or refusing to discontinue use of, clean out, disinfect, and fill up all privy vaults and cesspools or other individual wastewater disposal systems within 20 days after notice from an enforcement officer or official of the city.
13. *Stagnant water; offensive substances*. Permitting any lot or excavation to become the repository of stagnant water or any decaying or offensive substances.
14. *Obstructing public ways, watercourses, parks*. Obstructing or tending to obstruct or interfere with or render dangerous for passage any street or sidewalk, lake, stream, drainage canal or basin, or any public park without first obtaining the written permission of the city council.

(Code 1977, § 10-313; Code 1998, § 4-1-1-3)

**4-1-1-4 Enumeration Of Nuisances**

The types of nuisances above stated shall be deemed in addition to and in no way a limitation of the nuisances subject to this chapter.

(Code 1977, § 10-314; Code 1998, § 4-1-1-4)

**4-1-1-5 Restroom Or Sewer Facilities**

All restroom or sewer facilities shall be constructed and maintained in accordance with state law and city ordinances. All such facilities that do not comply with such provisions are hereby declared to be a nuisance and are subject to abatement as herein prescribed.

(Code 1977, § 10-315; Code 1998, § 4-1-1-5)

**4-1-1-6 Restrictions On Blocking Water**

A. *Obstructions*. It shall be unlawful for any person to permit any drainage system, canal, ditch, conduit or other watercourse of any kind or nature, natural or artificial, to become so obstructed as to cause the water to back up and overflow there from, or to become unsanitary.

B. *Subject to abatement*. Maintenance of any such watercourse in such condition shall constitute a nuisance and the same shall be subject to abatement.

(Code 1977, § 10-316; Code 1998, § 4-1-1-6)

**4-1-2 Nuisances On Property**

4-1-2-1 (Reserved For Future Use)
4-1-2-2 Duty Of Maintenance Of Private Property
4-1-2-3 Storage Of Personal Property
4-1-2-4 Abatement By Owners

**4-1-2-1 (Reserved For Future Use)**

**4-1-2-2 Duty Of Maintenance Of Private Property**

No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in any manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located.

(Code 1977, § 10-332; Code 1998, § 4-1-2-2)

**4-1-2-3 Storage Of Personal Property**

Unsheltered storage of old, unused, stripped and junked machinery, implements, equipment or personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, for a period of 30 days or more (except in licensed junk yards) within the city is hereby declared to be a nuisance and dangerous to the public safety.

(Code 1977, § 10-333; Code 1998, § 4-1-2-3)

**4-1-2-4 Abatement By Owners**

The owners, tenants, lessees or occupants of any lot within the city on which such unsheltered storage, as described in PCC 4-1-2-3, is made, and also the owner, owners or lessees of the above described personal property involved in such storage, shall jointly and severally abate such nuisance by its prompt removal into completely enclosed and secured yards or buildings to be used for such purposes, or otherwise remove such property from the city.

(Code 1977, § 10-334; Code 1998, § 4-1-2-4)

**4-1-3 Abatement Procedure**

4-1-3-1 Appointment And Duties Of Nuisance Officer
4-1-3-2 Hearing
4-1-3-3 Failure To Comply; Abatement By City
4-1-3-4 Itemized Statement
4-1-3-5 Failure To Make Payment
4-1-3-6 Collection By Lawsuit
4-1-3-7 Collection Through Taxes

4-1-3-8 Criminal Proceeding
4-1-3-9 Penalty For Failure To Comply

## 4-1-3-1 Appointment And Duties Of Nuisance Officer

A. *Appointment*. There is hereby established the position of nuisance officer whose duties shall be to enforce the provisions of this chapter. Until another person is designated, the contracted law enforcement agency shall enforce the provisions of this chapter. More than one person may be appointed to act as nuisance officer under this section.

B. *Duties*. The nuisance officer is authorized to:

1. Perform all functions necessary to enforce the provisions of this chapter.
2. Inspect or cause to be inspected, as often as needed, all buildings, structures, lots or places for the purpose of determining whether such are in compliance with the provisions of this chapter.

C. *Existence of objectional condition*. If the nuisance officer concludes there exists an objectionable condition in violations of this chapter, the nuisance officer shall:

1. Ascertain the names of the owners and occupants and descriptions of the premises where such objects and conditions constituting a nuisance exist.
2. Serve notice in writing upon the owner and occupant of such premises, either personally or by mailing notice prepaid, addressed to the owner and occupant at their last-known post office addresses as disclosed by the records of the county assessor, or as otherwise ascertained, requiring such owner or occupant, or both, as the case may be, to eradicate or destroy and remove the nuisance within such time as the nuisance officer may designate; provided, that any person notified pursuant to this subsection shall be given at least ten, but not more than 20 days, as determined by the nuisance officer following the date of service of such notice, to correct the objectionable condition. The notice shall:
    a. Contain a specific statement of the nature of the violation and generally describe the premises on which the violation exists.
    b. Inform the owner, occupant or other person that in the event said individual disagrees with the determination of the nuisance officer and does not wish to comply with the provisions of the notice or that said individual objects to the factual or legal basis for the notice, said individual may request in writing a hearing before the city council at a time and place to be set by the city council. A written application for a hearing shall state the time within which the person must conform to the provisions of the notice.

c. Inform the person that in the event said person fails or neglects to correct the objectionable condition, the city will correct the objectionable condition and will collect the costs of so correcting the objectionable condition by either a court action, in which case said person will be assessed such costs, together with reasonable attorney fees and court costs, or will charge the cost of correcting the violation against the property as a tax.

3. In the event the owner or occupant makes such request for a hearing, the city council shall set the time and place for the hearing objections and the city recorder shall notify the owner, occupant or other persons having an interest in said property on the condition thereof in writing of the time and place at which they may appear and be heard. The hearing shall be heard within less than five days from the date of service or mailing of the notice of hearing.

(Code 1977, § 10-351; Code 1998, § 4-1-3-1)

**4-1-3-2 Hearing**

A. *Informal hearing; written decision*. At the written request of an owner, occupant or other person having an interest in property which is the subject of a notice to remove or abate weeds, objectionable conditions or objects from the property, the city council shall conduct an informal hearing (which need not be reported), wherein such persons may present such evidence and argument as is pertinent to the question of whether or not the removal or abatement of the objects or conditions is properly within the purview of this chapter. The city council shall also permit the presentation of evidence and argument by the nuisance officer and other interested parties. Thereafter within not less than five nor more than ten days, the city council shall, over the signature of the mayor, or such other member of the city council as it may designate, render its written decision, a copy of which shall be mailed to or served upon the owner or any other person to whom the original notice was given by the nuisance officer.

B. *Notice of decision; abatement by owner or occupant*. In the event the decision of the city council upholds the determination of the nuisance officer, the notice originally given by the nuisance officer as above-provided shall be deemed to be sufficient to require the owner or occupant to remove or abate the objectionable objects or conditions, and said owner or occupant shall have up to ten days from the date of notice of the decision within which to conform thereto, unless additional time, not to exceed 30 days, is authorized by the nuisance officer.

C. *Time period for compliance*. In the event that the decision of the city council either overrules or modifies the determination of the nuisance officer, the written decision of the city council shall apprise the owner or occupant of that fact and

set forth the details and extent to which the owner or occupant must make removal or other abatement of the objectionable objects or conditions, if any. The owner or occupant shall be required to conform to the decision of the city council within ten days after service or mailing of a copy of the decision, and the decision shall be deemed to be the modified decision of the nuisance officer, unless additional time is authorized by the city council.

D. *Filing of amended notice*. The nuisance officer shall file an amended notice and proof of service of notice and file the same in the office of the county treasurer.

(Code 1977, § 10-352; Code 1998, § 4-1-3-2)

**4-1-3-3 Failure To Comply; Abatement By City**

If any owner, occupant or other person having an interest in land described in such notice of decision to whom the notice was given shall fail or neglect to conform to the requirements thereof relating to the eradication, destruction or removal of such weeds, garbage, refuse, objects or structures, the nuisance officer shall employ all necessary assistance to cause such objectionable objects or conditions to be removed or destroyed at the expense of the city.

(Code 1977, § 10-353; Code 1998, § 4-1-3-3)

**4-1-3-4 Itemized Statement**

The nuisance officer shall prepare an itemized statement of all expenses incurred in the removal and destruction of nuisances, and shall mail a copy thereof to the owner or occupant, or both, or to persons having an interest in the property, demanding payment within 20 days of the date of mailing. The notice shall be deemed delivered when mailed by registered mail, addressed to the last-known address of the property owner, occupant or persons having an interest in the property.

(Code 1977, § 10-353; Code 1998, § 4-1-3-4)

**4-1-3-5 Failure To Make Payment**

In the event the owner, occupant or person having an interest in the property fails to make payment of the amount set forth in the statement to the city treasurer within the 20 days, the nuisance officer may either cause suit to be brought in an appropriate court of law or may refer the matter to the county treasurer as provided in this chapter.

(Code 1977, § 10-355; Code 1998, § 4-1-3-5)

**4-1-3-6 Collection By Lawsuit**

In the event collection of expenses of destruction and removal are pursued through the courts, the city shall sue and receive judgment for all of said expenses of destruction and

removal, together with reasonable attorney fees, interest and court costs, and shall execute upon such judgment in the manner provided by law.

(Code 1977, § 10-356; Code 1998, § 4-1-3-6)

**4-1-3-7 Collection Through Taxes**

In the event that the nuisance officer elects to refer the expenses of destruction or removal to the county treasurer for inclusion in the tax notice of the property owner, the nuisance officer shall make in triplicate an itemized statement of all expenses incurred in the destruction and removal of the same, and shall deliver three copies of the statement to the county treasurer within ten days after the completion of the work of destroying or removing such weeds, refuse, garbage, objects, or structures. Thereupon, the costs of the work shall be pursued by the county treasurer in accordance with the provisions of U.C.A. 1953, § 10-11-4, as amended, and the recalcitrant owner shall have such rights and shall be subject to such powers as are thereby granted.

(Code 1977, § 10-357; Code 1998, § 4-1-3-7)

**4-1-3-8 Criminal Proceeding**

The commencement of criminal proceedings for the purpose of imposing penalties for violations of this chapter shall not be conditioned upon prior issuance of a notice or the granting to the defendant an opportunity to abate or remove the nuisance. The provisions of this chapter relating to notice and abatement shall be deemed merely alternative and additional methods of securing conformity to the provisions of this chapter.

(Code 1977, § 10-358; Code 1998, § 4-1-3-8)

**4-1-3-9 Penalty For Failure To Comply**

A. *Class C misdemeanor*. Any owner, occupant or person having an interest in property subject to this chapter who shall fail to comply with the notice or order given pursuant to this chapter shall be guilty of a Class C misdemeanor and subject to penalty as provided in PCC 1-4-1 for each offense, and further sum of $25.00 for each and every day such failure to comply continues beyond the date fixed for compliance.

B. *Criminal proceedings*. Compliance by any owner, occupant or person to whom a notice has been given subsequent to the commencement of criminal proceedings as provided in this chapter shall not be admissible in any criminal proceeding brought pursuant to this section.

(Code 1977, § 10-359; Code 1998, § 4-1-3-9)

## CHAPTER 4-2 WEEDS

4-2-1 (Reserved For Future Use)
4-2-2 Standard Of Weed Control
4-2-3 Removal
4-2-4 Penalty

**State law reference**—Abatement of weeds, garbage, refuse, and unsightly objects, U.C.A. 1953, § 10-11-1.

### 4-2-1 (Reserved For Future Use)

### 4-2-2 Standard Of Weed Control

It is hereby declared that weeds, as defined in PCC 1-3-2, constitute a nuisance when they create a fire hazard, a source of contamination, or pollution of the water, air or property, a danger to health, a breeding place or habitation for insects or rodents or other forms of life deleterious to humans or are unsightly or deleterious to their surroundings.

(Code 1977, § 10-323A; Code 1998, § 4-2-2)

### 4-2-3 Removal

Cut weeds shall be removed from the premises within 24 hours after cutting.

(Code 1977, § 10-323B; Code 1998, § 4-2-3)

### 4-2-4 Penalty

It shall be an infraction and subject to penalty as provided in PCC 1-4-1 for any person owning or occupying real property to allow weeds to grow creating a fire hazard as determined by the fire marshal or nuisance officer or not to remove from such property any cuttings of such weeds or any refuse, unsightly or deleterious objects after having been given notice from the fire marshal as herein provided.

(Code 1977, § 10-321; Code 1998, § 4-2-4)

## CHAPTER 4-3 GARBAGE AND REFUSE

4-3-1 (Reserved For Future Use)
4-3-2 Collection And Pickup Of Garbage
4-3-3 Service Charges
4-3-4 Regulations
4-3-5 Vehicles And Equipment
4-3-6 Inspections
4-3-7 Violations
4-3-8 Hearings

4-3-9 Emergency Provisions

**State law reference**—Solid and Hazardous Waste Act, U.C.A. 1953, § 19-6-101 et seq.

## 4-3-1 (Reserved For Future Use)

## 4-3-2 Collection And Pickup Of Garbage

A. *Permit required*. It shall be unlawful for any person who does not possess a valid permit from the county service area, in addition to any business license required by the city, to engage in the business of refuse collection or refuse disposal for compensation within the city. The county service area shall issue permits for such applicants, provided that such permits shall be limited to persons having proper equipment and personnel to collect and dispose of refuse in accordance with the provisions of this chapter and that no permit shall be required of any agency acting under contract within the city.

B. *Collection.*

1. The city, or its agent, shall collect, remove and dispose of all residential and commercial garbage, the removal of which is not otherwise provided for by the establishment or institution as herein provided. All garbage and refuse shall be collected, removed and disposed of with such frequency and in such manner as the city council may from time to time establish by regulation.
2. Except as otherwise expressly permitted by this chapter, no garbage or refuse shall be moved or hauled away or transported upon the streets or public ways of the city, except by the city, or its agent, and except by authorized persons hauling commercial garbage or refuse as hereinafter provided. It is hereby declared to be unlawful for any person, except as permitted in this chapter, to haul or remove garbage or refuse in the city.
3. Commercial establishments, public or quasi-public, institutions and establishments creating commercial garbage themselves may employ the services of authorized contractors to remove commercial garbage. Authorized garbage haulers must apply for and receive permission to do so from the city recorder. Haulage of refuse must be done in the manner, and during such times and in such vehicles as may be approved for such purposes as the city council may from time to time by regulation provide.
4. Nothing contained in this subsection shall preclude persons from hauling their own garbage, trash or community waste over the streets and alleys of the city in vehicles and containers approved by a sanitary inspector or such other personnel of the city as the city council may authorize.
5. Nothing in this subsection shall be construed as eliminating the charge

made for garbage service.

C. *Garbage to be placed at pickup point*. All garbage and refuse subject to garbage collection by the city council shall be placed at a pickup point at or near the premises designated from time to time by regulations adopted by the city council and at such times as shall be designated by regulations of the city council.

D. *Garbage not set out prior to collection*. Until otherwise provided by regulation, garbage and refuse must not be set out upon the street for collection prior to 48 hours before collection and must be set out on the day of collection before the hour of collection designated by regulations of the city council.

E. *Removal of receptacles*. All empty receptacles must be removed from the street as soon as practicable after being emptied, and in every case, must be removed from the street within 24 hours after they are emptied. Receptacles shall not be permitted to remain on any street longer than may be necessary for the removal of the contents.

(Code 1977, §§ 10-412, 10-418, 10-424; Code 1998, § 4-3-2)

**4-3-3 Service Charges**

A. *Established*. The service charge for garbage collection shall be established by resolution from time to time by the city council and shall be in an amount consistent with the amounts set forth in the contract between the city and the county service area.

B. *Applicability*. Charges shall apply to all residences and business establishments, whether or not they have also elected to haul their own garbage or employ the services of authorized garbage haulers.

C. *Combined billing; exception*.

1. The garbage service charges above-imposed by this section shall be added to the charge made for water furnished through the water system of the city and shall be billed and collected in the same manner as water service charges are billed and collected.

2. In the event the obligee for the water service charges and the obligee for the garbage service charges do not coincide, or in the event that practical economic and administrative reasons do not make combined billing and collection feasible in the opinion of the city council, the garbage service charges may be collected with such frequency and in such manner as the city council shall by regulation provide.

(Code 1977, § 10-414; Code 1998, § 4-3-3)

## 4-3-4 Regulations

A. *No accumulation of garbage*. It shall be unlawful for any person to accumulate garbage of refuse or cause garbage or refuse to be deposited upon any street or upon any premises in the city without express permission from the nuisance officer. The nuisance officer may permit the feeding or processing of garbage or refuse upon premises properly equipped and maintained so as to prevent the creation of a nuisance or a hazard to health or permit the depositing of ashes and other dry material for filling purposes at such places as the nuisance officer may designate and under such restrictions as the city council may designate and under such restrictions as the city council may by regulation impose. Additionally, the nuisance officer may grant to any person permission for sorting, bailing and marketing trade waste upon premises properly equipped and maintained.

B. *Closing of containers required*. All garbage and market waste must be placed in rainproof and flyproof receptacles of the type herein required, and the receptacle shall be tightly closed in such manner as to prevent offensive odors or flies.

C. *Community waste*.

    1. Community waste may be disposed of by residents and business establishments in vehicles provided by them, subject to regulation by the city council as to the places of disposal and as to the type of vehicle used to avoid spillage upon the public ways of the city, hazards to safety and the prevention of nuisances.

    2. The city council from time to time may provide for the collection and disposal of such types of community waste as it may decide to collect and haul in connection with its regular garbage, waste collection and disposal service. In the event community waste disposal service should require a charge to be made by the city, the determination of the charge will be made by negotiation with the residents or business enterprises and the residents or business enterprises will be given an opportunity to choose from among services offered by persons other than the city.

D. *Dumping refuse prohibited*. It shall be unlawful for any person to place, deposit, or dump garbage, ashes, market waste, proper boxes, cartons, trade waste, manure or night soil, or any other refuse upon any lot within the city whether such lot is occupied or vacant and whether such person so placing, depositing or dumping such refuse is the owner, tenant, occupant or lessor thereof or has the same under the owner's, tenant's, occupant's or lessor's jurisdiction and control.

E. *Limitations upon dumping*. Dumping waste and garbage shall be permitted only in such places as are designated by the city council. Dumping shall be subject to such rules and regulations as may be formulated by the city council.

F. *Regulation by city council*. The city council may adopt such regulations as in its

opinion are necessary to implement this chapter and its objectives.

(Code 1977, §§ 10-415, 10-417, 10-419, 10-421--10-423; Code 1998, § 4-3-4)

## 4-3-5 Vehicles And Equipment

A. *Public or private vehicles*. All public or private vehicles used for the collection or disposal of refuse shall have enclosed bodies or suitable provision for covering the body. Provision and use of tarpaulin or canvas cover to enclose open bodies of collection vehicles may be permitted when specifically approved by the county service area.

B. *Collection and disposal vehicles*. Vehicles used for the collection or disposal of garbage, or of refuse containing garbage, shall have watertight, metal bodies of easily cleanable construction, shall be cleaned at sufficient frequency to prevent nuisance or insect breeding and shall be maintained in good repair.

(Code 1977, § 10-427; Code 1998, § 4-3-5)

## 4-3-6 Inspections

Any authorized employee or agent of the city, after providing identification, shall have the power to enter at reasonable times, upon private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of the provisions of this chapter and where necessary, shall obtain a search warrant from a court having jurisdiction.

(Code 1977, § 10-426; Code 1998, § 4-3-6)

## 4-3-7 Violations

A. *Notice*. Whenever the city has determined that there are reasonable grounds to believe that there has been a violation of any provision of this chapter, notice of such alleged violation shall be given to the person responsible therefor, as hereinafter provided. Such notice shall:

1. Be put into writing;
2. Include a statement of the reasons why it is being issued;
3. Allow a reasonable time for the performance of any act it requires;
4. Be served upon the holder of a permit issued under this chapter or upon the owner or agent or the occupant of any premises within the city, provided that such notice shall be deemed to have been properly served when a copy thereof has been served personally or in accordance with any other method authorized or required under the laws of the state for

commencement of civil actions.

B. *Contents*. Such notice may:

1. Contain an outline of remedial action which, if taken, will affect compliance with the provisions of this chapter.
2. State that unless conditions or practices described in such notice which violate this chapter are corrected within the reasonable time specified in such notice, the violator may be punished in accordance with the provisions of this chapter, or a permit which has been issued pursuant to this chapter may be suspended or revoked.

(Code 1977, §§ 10-425A, 10-425B; Code 1998, § 4-3-7)

**4-3-8 Hearings**

A. *County service area*.

1. *Request; notice; commencement*. Any person who is affected by any notice issued in connection with the enforcement of any provision of this chapter may request, and shall be granted, a hearing on the matter before the county service area or its designee; provided, that such person shall file, in the office of the county service area, a written request for such hearing within ten days after the date the notice was served. Upon receipt of such request, the county service area shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to be heard. The hearing shall be commenced not later than ten days after the day on which the request was filed; provided, that upon application of the petitioner, the county service area may postpone the date of the hearing for a reasonable time beyond such ten-day period when, in its judgment, the petitioner has submitted a good and sufficient reason for such postponement.
2. *Findings; order*. After such hearing, the county service area shall sustain, modify, or withdraw the notice, depending upon its findings based on such hearing as to whether or not the provisions of this chapter and of the regulations adopted pursuant thereto have been complied with. If the county service area sustains or modifies such notice, it shall be deemed to be an order. Any notice shall automatically become an order if a written request for a hearing has not been filed in the office of the county service area within ten days after such notice was served. In the case of any notice which states that a permit required by this chapter may be suspended or revoked, the county service area may suspend or revoke such permit if an order is issued and corrective action has not been taken

within the time specified in the notice.

3. *Records*. The proceedings at such hearing, including the findings and decision of the county service area, shall be summarized, reduced to writing, and entered as a matter of public record in the office of the county service area. Such record shall include, also, a copy of every notice or order issued in connection with the matter.

B. *City council*.

1. *Notice*. If the corrective action ordered by the county service area under this chapter has not been taken within five days after such decision or order thereof, the county service area shall hear the matter. Notice of the hearing shall be given by personal service or by leaving a copy at the residence or place of business of the person not complying, with anyone at such address who is over the age of 14 years and by mailing a copy of the notice to the last-known address of the person not complying with the order.

2. *Decision*. At the time set for hearing by the county service area, the city council shall hear the matter and receive evidence and determine what corrective action is required, if any. The decision of the city council shall be in writing and a copy of mailed to the person not complying.

3. *Compliance; penalty*. Any person who does not comply with the decision of the city council shall be guilty of a Class B misdemeanor and subject to penalty as provided in PCC 1-4-1. The city council may order the county service area to take the corrective action required if the person who does not comply fails to do so and a court action shall be commenced against such person for any costs incurred by the city.

(Code 1977, §§ 10-425C--10-425H; Code 1998, § 4-3-8)

## 4-3-9 Emergency Provisions

Whenever the county service area finds that an emergency exists involving a serious health hazard which requires immediate action to protect the public health it may, without notice or hearing, issue a written order reciting the existence of such an emergency and the conditions violating this chapter which require corrective action to remove such health hazard. If such corrective action is not taken, the county service area may take the action, including the abatement of any nuisance as may be necessary to protect the public health. Notwithstanding other provisions of this chapter, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the city council, shall be afforded a hearing as soon as possible, but in any case, not later than three days after the petition was filed. After such hearing, depending upon the findings of the city council as to whether or not the

provisions of this chapter and of the regulations adopted pursuant hereto have been complied with, the city council may continue such order in effect, modify it or revoke it.

(Code 1977, § 10-425l; Code 1998, § 4-3-9)

## CHAPTER 4-4 OPEN BURNING


4-4-1 Enforcement Authority
4-4-2 General Prohibition
4-4-3 Permitted Burning; Conditions
4-4-4 Permits
4-4-5 Restricted Areas
4-4-6 Unattended, Uncontrolled Fires
4-4-7 Penalty; Liability


**State law reference**—Reckless burning, U.C.A. 1953, § 76-6-104.

### 4-4-1 Enforcement Authority

A. *County authorities*. The responsibility for the enforcement of this chapter shall be primarily in the county fire chief or the county fire chief's duly authorized agents or deputies and also in the county sheriff or the county sheriff's duly authorized deputies in conjunction with the county fire chief.

B. *Suppression*. If there is reason to believe that any fire presents or is likely to present a danger to persons or property, the officers or deputies designated in subsection A of this section shall have the authority to require the immediate suppression or prohibition of such burning pending further action by the county fire chief or county council as the case may require.

(Code 1998, § 4-4-1; Ord. No. 10-152, 8-23-1989)

### 4-4-2 General Prohibition

No person shall burn any trash, garbage or other waste, nor conduct any salvage operations in or at any open fire site, except as provided by this chapter.

(Code 1998, § 4-4-2; Ord. No. 10-152, 8-23-1989)

### 4-4-3 Permitted Burning; Conditions

A. *Without permit*. Unless prohibited by state statutes or regulations, other city ordinances, applicable declarations of closed fire seasons, or the order of a law enforcement officer, the county fire chief or the county fire chief's duly authorized agent, the following types of burning are permitted without a permit:

1. *Outdoor food preparation devices*. Fires in outdoor grills, fireplaces, or similar devices for the primary purpose of preparing food, provided the devices are not used for the burning of refuse, trash, garbage, or other waste in areas where there is a public or duly licensed disposal service available.
2. *Campfires*. Campfires and other recreational fires, provided that such fires are attended and under the control of a responsible person, and further provided, that no such fire shall be permitted during any closed fire season as declared by the state fire marshal's declaration.
3. *Fireplaces*. Fires in indoor fireplaces.
4. *Household wastes; family units*. Burning on the premises of combustible household wastes generated by occupants of dwellings of four family units or less in those areas only where no public or duly licensed disposal service is available.
5. *Fence lines*. A burning permit is not required for the burning of fence lines on cultivated lands, canals, or irrigation ditches where the burning will not pose a threat to forest, range, or watershed lands, provided due care is used in the control of the burning and that the individual notifies the nearest fire department of the approximate time the burning will occur.

B. *Permit required*. Unless prohibited by state statutes or regulations, other city ordinances, applicable declarations of closed fire seasons, or the order of a law enforcement officer, the county fire chief or the county fire chief's duly authorized agent, the following types of burning are permitted, provided that a county permit has first been obtained:

1. *Heating crops; orchards*. The controlled heating of orchards or other crops to minimize damage from freezing temperatures, provided that the emissions from such heating shall not violate any minimum standards established by the state department of health.
2. *Materials; structures*. Open burning of materials or structures when conducted under the control and supervision of the county fire chief.
3. *Firefighter training*. Fires for firefighter training purposes when conducted under the direct control and supervision of the county fire chief.
4. *Hazardous materials site*. Open burning at an approved site of hazardous materials for which there is no reasonable alternate practical method of disposal, provided that such burning shall be under the supervision of the county fire chief and in accordance with state law.
5. *Special purposes*. Other open burning for special purposes or under unique circumstances when approved by the county fire chief and the county health department following a formal request therefor.

6. *County property*. Fires on any county property, including roads, right-of-way, ditch banks, river bottom lands, wild lands, or other areas of city domain.

(Code 1998, § 4-4-3; Ord. No. 10-152, 8-23-1989)

**4-4-4 Permits**

A. *Issuance*. County permits shall be issued by the county fire chief, who shall be authorized to determine the appropriate application process and forms for the issuance of such permits.

(Code 1998, § 4-4-4; Ord. No. 10-452, 8-23-1989)

**4-4-5 Restricted Areas**

A. *Community waste sites*. No burning shall be done at sites used for the disposal of community trash, garbage, or other waste, except when authorized for a specific period of time and subject to specific conditions as approved by the state air conservation committee in accordance with the Utah Air Conservation Act (U.C.A Title 19, Chapter 2) and by the city council after a public hearing.

B. *Wildlife resources land*. The consent of the state division of wildlife resources shall be required for any fires on any property leased, owned, or controlled by that division as wild lands or wildlife habitats.

(Code 1998, § 4-4-5; Ord. No. 10-152, 8-23-1989)

**4-4-6 Unattended, Uncontrolled Fires**

A. *Prohibited*. It shall be unlawful for any person to leave any fire unattended whether on private or public property.

B. *Public nuisance*. Any fire on private or public property burning uncontrolled and without proper and adequate action being taken to prevent its spread is declared a public nuisance. It shall be unlawful for any person to maintain or commit any public nuisance.

C. *Unattended defined*. A fire shall be deemed unattended when flame, live coals, or embers remain and the person responsible for the fire has left the proximity of the fire, whether in distance or time that would preclude prompt suppression action by said person.

(Code 1998, § 4-4-6; Ord. No. 10-152, 8-23-1989)

## 4-4-7 Penalty; Liability

A. *Violation*. Any person who shall violate or fail to comply with the provisions of this chapter shall, for each day for each violation or noncompliance, be guilty of a separate Class B misdemeanor, subject to penalty as provided in PCC 1-4-1, for each offense.

B. *Liability for costs*. Any person responsible for the existence or spread of any uncontrolled or unattended fire or any other fire, on public or private property, necessitating suppression action by the county or state, shall be liable to the county or state for the payment of all costs therefor.

(Code 1998, § 4-4-7; Ord. No. 10-152, 8-23-1998)

# CHAPTER 4-5 LITTER; HANDBILLS


4-5-1 (Reserved For Future Use)
4-5-2 Litter Regulations
4-5-3 Handbills And Posters; Restricted Activity
4-5-4 Handbill Regulations
4-5-5 Posting Notices Prohibited
4-5-6 Exception; Mail And Newspapers


## 4-5-1 (Reserved For Future Use)

## 4-5-2 Litter Regulations

A. *Litter in public places*. No person shall throw or deposit litter in or on any street, sidewalk or other public place except:

1. In authorized receptacles for collection or in official city garbage dumps; or
2. For collection as authorized by the city council.

B. *Placement of litter in receptacles*. Persons placing litter in authorized receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements on any street, sidewalk or other public place or on private property.

C. *Sweeping litter into gutters prohibited*. No person shall sweep into or deposit in any gutter, street or other public place the accumulation of litter from any building or lot or from any public or private sidewalk or driveway, except as authorized by the city council. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

D. *Merchants' duty to keep sidewalks free of litter*. No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place the accumulation of litter from any building or lot or from any public or

private sidewalk or driveway. Persons owning or occupying places of business shall keep the sidewalk in front of their business premises free of litter.

E. *Litter thrown by person in vehicle*. No person, while a driver or passenger in a vehicle, shall throw or deposit litter on any street or other public place, or on private property.

F. *Truck loads causing litter*. No person shall drive or move any truck or other vehicle unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited on any street, alley or other public place. Nor shall any person drive or move any vehicle or truck, the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind.

G. *Litter in parks*. No person shall throw or deposit litter in any park, except in authorized receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements on any part of the park or on any street or other public place. Where authorized receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein.

H. *Litter in lakes and foundations*. No person shall throw or deposit litter in any fountain, pond, lake, stream or any other body of water in a park or elsewhere within the city.

I. *Litter on occupied private property*. No person shall throw or deposit litter on any occupied private property, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements on any street, sidewalk or other public place or on any private property.

J. *Litter on vacant lots*. No person shall throw or deposit litter on any open or vacant private property whether or not owned by such person.

(Code 1977, §§ 10-432--10-439, 10-447, 10-448; Code 1998, § 4-5-2)

## 4-5-3 Handbills And Posters; Restricted Activity

No person or business shall post, stick, paint, or otherwise fix, or cause the same to be done by any person, any notice, placard, bill, card, poster, advertisement or other paper or device calculated to attract the attention of the public, or upon any sidewalk, curb or any other portion or part of any public way or public place or any lamp post, electrical light, telegraph, telephone or railway structure, hydrant, shade tree or tree box, or upon the columns, trusses, girders, railings, gates or other parts of any bridge or other public structure or building, or upon any pole, box or fixture of the fire alarm or police telegraph system, except such as may be authorized or required by the laws of the United States, or the state and the ordinances of the city.

(Code 1977, § 10-449A; Code 1998, § 4-5-3)

## 4-5-4 Handbill Regulations

A. *Throwing or distributing in public places; penalty*. No person shall throw or deposit any commercial or noncommercial handbill in or on any sidewalk, street or other public place within the city. Unless otherwise authorized by the city council, it is an infraction and subject to penalty as provided in PCC 1-4-1, for any person to hand out, distribute or sell any commercial handbill in any public place; provided, however, that it shall not be unlawful on any sidewalk, street, or other public place for any person to hand out or distribute, without charge to the receiver thereof, any commercial or noncommercial handbill to any person willing to accept it.

B. *Placing on vehicles*. Unless otherwise authorized by the city council, no person shall throw or deposit any commercial or noncommercial handbill in or on any vehicle; provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof a commercial or noncommercial handbill to any occupant of a vehicle who is willing to accept it and provided further that it shall not be unlawful to place or attach a commercial or not commercial handbill upon a vehicle in a manner that will prevent the handbill from being blown about or scattered by the elements.

C. *Depositing on uninhabited or vacant premises*. No person shall throw or deposit any commercial or noncommercial handbill in or on any private premises which are temporarily or continuously uninhabited or vacant.

D. *Prohibiting distribution where properly posted*. No person shall throw, deposit or distribute any commercial or noncommercial handbill on any private premises, if requested by anyone thereon not to do so or if there is placed on said premises in a conspicuous position near the entrance thereof a sign being the words "no trespassing," " no peddlers or agents," "no advertisements," or any similar notice, indicating in any manner that the occupants of the premises do not desire to be molested or to have their right of privacy disturbed or to have any such handbills left on such premises.

E. *Distributing at inhabited private premises*. No person shall throw, deposit or distribute any commercial or noncommercial handbill in or on private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant or other person then present in or on such private premises. However, in case of inhabited private premises which are not posted, as provided in this Section, such person, unless requested by anyone on such premises not to do so, may place or deposit any such handbill in or on such inhabited private premises if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets or other public places, and except that mailboxes may not be so used when prohibited by federal postal law or regulations.

(Code 1977, §§ 10-440--10-444; Code 1998, § 4-5-4)

### 4-5-5 Posting Notices Prohibited

No person shall post or affix any notice, poster or other paper or device, calculated to attract the attention of the public, to any lamp post, public utility pole or shade tree, or on any public structure or building, except as may be authorized or required by law.

(Code 1977, § 10-446; Code 1998, § 4-5-5)

### 4-5-6 Exception; Mail And Newspapers

The provisions of this chapter shall not apply to the distribution of mail by the United States, nor to newspapers, except that newspapers shall be placed on private property in such a manner so as to prevent their being carried or deposited by the elements on any street, sidewalk or other public place or on private property.

(Code 1977, § 10-445; Code 1998, § 4-5-6)

## CHAPTER 4-6 GENERAL HEALTH REGULATIONS


4-6-1 Board Of Health
4-6-2 (Reserved For Future Use)
4-6-3 Permit Required
4-6-4 Application For Permit
4-6-5 Unwholesome Food
4-6-6 Removal Of Garbage
4-6-7 (Reserved For Future Use)
4-6-8 Inadequate Plumbing


### 4-6-1 Board Of Health

A. *Established*. The Bear River District Health Department is hereby designated as the board of health of the city and under the direction of the elected officials.

B. *Powers and duties*.

1. *Contract with department*. The city may contract with the Bear River District Health Department on such items and conditions as the parties may agree to enforce the provisions of this chapter and such other ordinances of the city, which authorize or require action or impose any duty on the board of health.

2. *Adopt rules and regulation*s. The board of health shall adopt such rules and regulations as it shall deem necessary to govern its meetings and conduct.

3. *Review and approve applications and permits*. The board of health shall review and approve all applications for permits to operate any business or engage in any construction for which a permit is required from the board of health pursuant to any ordinances or regulations of the city.
4. *Recommend rules and regulations*. The board of health shall recommend to the mayor for promulgation by the city council such health rules, regulations and ordinances as it deems necessary for the health of the persons within the city.

(Code 1977, §§ 10-211, 10-212; Code 1998, § 4-6-1)

**4-6-2 (Reserved For Future Use)**

**4-6-3 Permit Required**

It shall be unlawful for any person to engage in any of the following businesses or activities without first obtaining a permit from the board of health:

A. *Food or food products for human consumption*. Handling, selling, offering for sale, preparing or serving any food or food products or beverages or water intended for human consumption.

B. *Fumigation of pests*. Fumigating or eradicating pests, insects, vermin or any other infestation from any building occupied or to be occupied by humans.

(Code 1977, § 10-213; Code 1998, § 4-6-3)

**4-6-4 Application For Permit**

A. *Board of health*. Applications for a permit from the board of health shall be made in writing to the board of health.

B. *Referral*. The application shall be referred by the city recorder to the board of health for review and recommendation. The board of health shall then forward the application with its recommendation to the mayor for approval or disapproval by the city council.

(Code 1977, § 10-214; Code 1998, § 4-6-4)

**4-6-5 Unwholesome Food**

It is a Class B misdemeanor and subject to penalty as provided in PCC 1-4-1 for any person to sell or offer for sale any unwholesome food or beverage which has been condemned by any government food inspector.

(Code 1977, § 10-223; Code 1998, § 4-6-5)

### 4-6-6 Removal Of Garbage

A. *Vacating premises*. It shall be unlawful for any person, upon vacating or moving from any dwelling, storeroom, or other building, to fail to remove all garbage, rubbish, or ashes from such building or premises and the grounds appurtenant thereto, or to fail to place the same in a thoroughly sanitary condition within 24 hours after the premises are vacated.

B. *Rental property*. In situations where rental property is so vacated, the owner of the property shall be concurrently responsible with the tenant thereof for compliance with this section.

(Code 1977, § 10-224; Code 1998, § 4-6-6)

### 4-6-7 (Reserved For Future Use)

### 4-6-8 Inadequate Plumbing

The health director shall have power to require the prompt repair of all leaks or other defects in plumbing throughout the city. The health director shall have the power to condemn and abate all plumbing which is deficient under the plumbing ordinances. When, in the opinion of the health director, a change in occupants, type of business or other cause requires changes in plumbing, the health director shall have the power to compel the installation of an increased number of plumbing fixtures and a change in their type or capacity, and to make such other alterations or increases as may be necessary for the health and safety of the occupants of the building and of the public generally.

(Code 1977, § 10-226; Code 1998, § 4-6-8)

## CHAPTER 4-7 OFFENSIVE BUSINESSES AND FACILITIES

4-7-1 (Reserved For Future Use)
4-7-2 Permit Required
4-7-3 Application For Permit
4-7-4 Issuance Of Permit
4-7-5 Control Of Animal And Fowl Facilities
4-7-6 Existing Businesses And Facilities

### 4-7-1 (Reserved For Future Use)

### 4-7-2 Permit Required

No person shall commence or change the location of an offensive business or establishment in or within one mile of the limits or the city without first filing an

application for a permit to do so with the city recorder.

(Code 1977, § 10-241A; Code 1998, § 4-7-2)

## 4-7-3 Application For Permit

The application for a permit shall specify the location at which the business or establishment is to be operated and maintained or the new location to which it is to be moved. The application shall describe the type of activity which will be conducted and describe the manner in which the business or establishment shall eliminate, control, or modify the emission by the business of the undesirable odors, fumes, noises, and other noisome features and the manner in which it shall be screened from public view, if its appearance is offensive.

(Code 1977, § 10-241C; Code 1998, § 4-7-3)

## 4-7-4 Issuance Of Permit

A. *Report and recommendation*. The city recorder shall cause a study to be made of the proposed business or relocation of any offensive business or establishment by the Bear River District Health Department and by personnel engaged in the inspection of buildings and other facilities. A report and recommendation shall be made to the city council. The city council, after review, may grant to the applicant an opportunity to be heard and present additional facts. Thereafter the city council may:

    1. Deny the application.
    2. Recommend a modification thereof.
    3. Grant a limited permit to enter into the business or make the change of location subject to the requirement that the business or facility conform to standards established by the city council with reference to controlling the offensive features of the business.

B. *Revocation of permit*. In the event a permit is granted, it shall be subject to revocation either upon failure of the operator or owner to conduct business in the manner specified by the city council at the time of the granting of the permit, or because a change of circumstances makes the continued operation or maintenance of the business or facility a public nuisance.

C. *Modification of permit*. The city council shall have the power to revoke or modify the permission to operate and maintain the business in such manner as it deems necessary for the public good.

(Code 1977, § 10-242; Code 1998, § 4-7-4)

## 4-7-5 Control Of Animal And Fowl Facilities

A. *Location and management*. The city council shall have the power to prohibit or control the location and management of any offensive, unwholesome business or establishment in or within one mile of the city and may compel the owner of any pigsty, privy, barn, corral, fur-bearing animal farm, feed yard, poultry farm, or other unwholesome or nauseous house or place to cleanse, abate or remove the same.

B. *Examination of operation*. The city council may, on its own initiative, and shall, on complaint of a member of the public, examine the operation, control or location of any business of facility for the purpose of determining whether or not the operation of such business or facility should be improved so as to minimize the offensive and unwholesome characteristics or whether the business or activity should be moved or abated.

C. *Notification*. In the event that the city council decides that the business or facility should be abated, removed, or controlled, it shall notify the owner or operator of the business or facility of such fact.

D. *Hearing; limited permit*. After a hearing, the city council may issue a limited permit wherein it may prescribe the specifications and standard which must be followed by the business or facility in order to be permitted to continue in operation.

E. *Abatement or removal*. Upon a determination by the city council that the business or facility is a nuisance, it shall have the power to order the abatement or removal of the facility or establishment. If the owner fails to conform to such order, the city council shall have the power to bring all necessary legal proceedings to force removal, abatement, or adherence to standards.

(Code 1977, § 10-224; Code 1998, § 4-7-5)

## 4-7-6 Existing Businesses And Facilities

A. *Investigation by city council*. The city council may require an investigation of any existing offensive business or facility to determine whether or not it should be permitted to remain in existence in or within one mile of the city limits. If the city council determines that the continuation of the business or facility has become a nuisance to persons situated within the city limits or that ample control is not being exercised to minimize the creation of excessive odors, fumes, smoke, gases, and noise, it shall notify the owner or operator thereof that the city council is considering revoking or modifying the operator's permit.

B. *Conform to standards and specifications*. If the city council decides to require a modification of the manner in which the business or facility is to be maintained, it shall specify the standards or specifications to which the enterprise must conform

or otherwise lose its permit to engage thereafter in the business or activity.

(Code 1977, § 10-243; Code 1998, § 4-7-6)

## CHAPTER 4-8 HAZARDOUS MATERIALS

4-8-1 (Reserved For Future Use)
4-8-2 Recovery

### 4-8-1 (Reserved For Future Use)

### 4-8-2 Recovery

The mayor is authorized and directed to take all necessary action to recover, on behalf of the city, from those persons whose negligent actions caused hazardous materials emergency expenses incurred by the city directly associated with a response to such hazardous materials emergency.

(Code 1998, § 4-8-2; Ord. No. 026-99, 11-9-1999)

## CHAPTER 4-9 NOISE

4-9-1 Definitions, Generally
4-9-2 Prohibited Acts, Generally
4-9-3 Prohibited Acts, Specifically
4-9-4 Exceptions
4-9-5 Application For Special Permit
4-9-6 Penalty
4-9-7 Additional Remedy; Injunction

**State law reference**—General authority relative to noise, U.C.A. 1953, §§ 10-8-47(a)(b), 10-8-76.

### 4-9-1 Definitions, Generally

All terminology used in this chapter and not defined in PCC 1-3-2 shall be in conformance with applicable American Standards Institute Publications, including, but not limited to, S1, 1-1 1971, or those from its successor publications or bodies.

(Code 1998, § 4-9-1(part); Ord. No. 003-01, 2-27-2001)

### 4-9-2 Prohibited Acts, Generally

It shall be unlawful for any person to make, continue, or cause to be made or continued any excessive, unnecessary or unusual loud noise or any noise that either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of reasonable persons with normal sensitivities within the limits of the city. Any sound that exists,

essentially without interruption for a period of ten minutes or more is considered continue or continued.

(Code 1998, § 4-9-2; Ord. No. 003-01, 2-27-2001)

**4-9-3 Prohibited Acts, Specifically**

The following acts, among others, are declared to be loud, disturbing or unnecessary noises in violation of this chapter, but said enumeration shall not be deemed to be exclusive, namely:

A. *Horns and signaling devices*. The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle, that creates any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary or unreasonable period of time. The use of any horn, whistle or other device operated by engine exhaust.

B. *Radios, subwoofers, etc.*, The using, operating, or permitting to be played, used or operated in residential areas and electronic amplifying device such as television, radio receiving set, musical instrument, in such manner as to disturb the peace, quiet and comfort of a reasonable person of ordinary sensibilities or at any time with louder volume than is necessary for convenient hearing for the persons who are voluntary listeners thereto. The operation of any such device between the hours of 10:00 p.m. and 6:00 a.m. the following morning in such a manner as to be plainly audible at a distance of 30 feet from the building, structure or vehicle in that it is located shall be prima facie evidence of a violation of this section.

C. *Loudspeakers, amplifiers and other sound devices for advertising*. The using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound upon the public streets for the purpose of commercial or noncommercial advertising or attracting the attention of the public to any building or structure without or in violation of a permit issued pursuant to PCC 4-9-5.

D. *Yelling, shouting, etc.*, Yelling, shouting, whistling or otherwise creating sustained noise on the public streets, particularly between the hours of 10:00 p.m. and 6:00 a.m. the following day, or at any time or place so as to annoy or disturb the quiet, comfort, or repose of a reasonable person of ordinary sensibilities in any dwelling, hotel, or other type of residence.

E. *Exhausts*. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motorboat or motor vehicle except through a muffler or other device that will effectively prevent loud or explosive noises therefrom.

F. *Defect in vehicle or load*. The use of any automobile, motorcycle, or other vehicle, that due to lack of repair or improper loading creates loud and unnecessary grating, grinding, rattling or other noise.

G. *Loading and unloading of vehicles*. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers.

H. *Construction or repairing of buildings*. The erection (including excavation), demolition, alteration or repair of any building shall be prohibited between the hours of 10:00 p.m. and 6:00 a.m. the following day, local prevailing time, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the city.

I. *Schools, courts, churches, hospitals, parks*. The creation of any excessive noise adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, that unreasonably interferes with the working of such institution, or that disturbs or unduly annoys individuals in the hospital, or in any park, that unreasonably disturbs the users thereof.

J. *Pile drivers, hammers, etc.*, The operation, between the hours of 10:00 p.m. and 6:00 a.m. the following day, of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of that is usually attended by loud or unusual noise.

K. *Power lawn mowers*. The operation of any power mower, cultivator, or like or related device (except snow blowers) in an area zoned residential between the hours of 10:00 p.m. and 6:00 a.m. the following day.

(Code 1998, § 4-9-3; Ord. No. 003-01, 2-27-2001)

**4-9-4 Exceptions**

The following uses and activities shall be exempt from noise level regulations:

A. Noises of safety signals, warning devices, and emergency pressure relief valves.

B. Noises resulting from any authorized emergency vehicle, when responding to an emergency.

C. Noises resulting from emergency work, as defined in PCC 1-3-2.

D. Any other noise resulting from activities of a temporary duration permitted by law that a license or permit therefor has been granted by the city in accordance with PCC 4-9-5.

E. Any aircraft or railroad equipment operated in conformity with or pursuant to state statute, federal law, federal regulations and traffic control instruction used pursuant to and within the duly adopted state or federal regulations. Any aircraft

operating under technical difficulties, in any kind of distress, under emergency orders of air traffic control or being operated pursuant to and subsequent to the declaration of an emergency under federal air regulations shall also be exempt.

F. Farm equipment, when in actual crop production (such as, but not limited to, baling hay).

G. Noises resulting from a city-sponsored event (such as, but not limited to, baseball games, dances, celebrations, etc.).

(Code 1998, § 4-9-4; Ord. No. 003-01, 2-27-2001)

**4-9-5 Application For Special Permit**

Applications for a permit for relief from the noise level designated in this chapter on the basis of undue hardship may be made to the city council or duly authorized representative. Any permit granted by the council hereunder shall contain all conditions upon that said permit and shall specify a reasonable time that the permit shall be effective. The city council or duly authorized representative may grant a relief as applied for if they find:

A. That additional time is necessary for the applicant to alter or modify the activity or operation to comply with this chapter;

B. The activity, operation or noise source will be of temporary duration and cannot be done in a manner that would comply with the chapter;

C. That no other reasonable alternative is available to the applicant;

D. The city council, in granting such a special permit, may prescribe any conditions or requirements they deem necessary to minimize adverse effects upon the community of the surrounding neighborhood.

(Code 1998, § 4-9-5; Ord. No. 003-01, 2-27-2001)

**4-9-6 Penalty**

Any person violating any of the provisions of this chapter shall be deemed guilty of an infraction. Each occurrence when such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as a separate offense.

(Code 1998, § 4-9-6; Ord. No. 003-01, 2-27-2001)

**4-9-7 Additional Remedy; Injunction**

As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provisions hereof or that causes discomfort or annoyance to reasonable persons of normal sensitivity or that endangers the comfort,

repose, health or peace of residents in the area shall be deemed, and is declared to be, a public nuisance and may be subject to abatement as prescribed by law.

(Code 1998, § 4-9-7; Ord. No. 003-01, 2-27-2001)

## TITLE 5 POLICE REGULATIONS

CHAPTER 5-1 ANIMAL REGULATION AND CONTROL
CHAPTER 5-2 CRIMINAL CODE AND MISCELLANEOUS OFFENSES
CHAPTER 5-3 CURFEW; MINORS
CHAPTER 5-4 FENCE REGULATIONS
CHAPTER 5-5 FENCES IN COMMERCIAL ZONES
CHAPTER 5-6 (RESERVED FOR FUTURE USE)
CHAPTER 5-7 LEWDNESS, PROFANITY, NUDITY, OBSCENITY AND PORNOGRAPHY
CHAPTER 5-8 UNLAWFUL SEX ACTS
CHAPTER 5-9 OFF-HIGHWAY VEHICLES
CHAPTER 5-10 SYNTHETIC CANNABINOIDS

## CHAPTER 5-1 ANIMAL REGULATION AND CONTROL

5-1-1 General Provisions
5-1-2 Purpose
5-1-3 Animal Control Fines
5-1-4 Zoning Use
5-1-5 Authority To Set Fees And Charges
5-1-6 Animal Control Officers Powers And Duties
5-1-7 Pounds, Impound Areas
5-1-8 Impoundment
5-1-9 Bees
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5-1-11 Dogs
5-1-12 Dog Licensing
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5-1-20 Animals Kept In Vehicles
5-1-21 Animal Feed, Bedding Stored On City Property
5-1-22 Public Nuisances Prohibited
5-1-23 Odor And Fly Control
5-1-24 Cruelty To Animals
5-1-25 Dangerous Or Vicious Animals
5-1-26 Animals At Large
5-1-27 Vehicular Accidents With Animals; Duties
5-1-28 Responsibility
5-1-29 Loud Or Offensive Animals; Penalty

**State law reference**—Municipal regulation of dogs, U.C.A. 1953, § 18-2-101.

## 5-1-1 General Provisions

A. This chapter shall be known and may be cited as the city "Animal Regulation and Control Ordinance."

(Code 1998, § 5-1-1; Ord. No. 015-2008, 11-11-2008; Ord. No. 008-2014, 12-9-2014; Ord. No. 2015-006, 12-10-2015; Ord. No. 2021-004, 4-21-2021)

## 5-1-2 Purpose

A. This chapter is intended to regulate, control, and protect animals existing within the city.

(Code 1998, § 5-1-2; Ord. No. 015-2008, 11-11-2008; Ord. No. 008-2014, 12-9-2014; Ord. No. 2015-006, 12-10-2015; Ord. No. 2021-004, 4-21-2021)

## 5-1-3 Animal Control Fines

Unless otherwise listed in the Utah Uniform Fine Schedule, the following fines apply:

| | | |
|---|---|---|
| 1. | Animal at large – first offense | $50.00 max fine |
| 2. | Animal at large – second offense | $100.00 max fine |
| 3. | Animal at large – third offense | $200.00 max fine |
| 4. | Animal at large – fourth offense | $400.00 max fine |
| 5. | Animal at large – fifth offense | $800.00 max fine * |
| 6. | Dogs molesting passerby | $80.00 |
| 7. | Nuisance animal/disturbing the peace | $75.00 |
| 8. | No kennel license | $125.00 |
| 9. | No dog license (not current) | $50.00 |
| 10. | No tags attached/no current tags | $50.00 |
| 11. | Un-vaccinated dog | $50.00 |
| 12. | Trespass of animals | $100.00 |
| 13. | Cruelty to animals | $1,000.00 |
| 14. | Vicious animal | $200.00 |
| 15. | Animals in prohibited place | $75.00 |

| | | |
|---|---|---|
| 16. | Not removing animal waste in public/private place | $50.00 |
| 17. | Interference with animal control or deputy | $200.00 |
| 18. | Possession of prohibited animals | $200.00 |
| 19. | Possession of dog or other animals used for fighting | $1,000.00 |
| 20. | Giving false information to animal control/deputy | $300.00 |

*Upon the fifth incident, the court may require the animal to be removed from the premises at the owner's expense.

Incident means a single occurrence resulting in a documented report of a violation, or a documented contact, or a citation, or any combination of the three.

Expenses may include, but are not limited to, boarding, medical and city fees.

The above incidents are for a 12-month period, unless the animal in question is deemed to be a public nuisance by the animal control officer and/or other officials of the city. The said animal will be dealt with in this manner when they are a constant problem for the city.

(Code 1998, tit. 5, ch. 6)

**5-1-4 Zoning Use**

A. See PCC chapter 10-6.

B. No person shall stable, keep, pasture or maintain animals within the limits of the city, unless expressly allowed to do so by the zoning code.

(Code 1998, § 5-1-3; Ord. No. 015-2008, 11-11-2008; Ord. No. 008-2014, 12-9-2014; Ord. No. 2015-006, 12-10-2015; Ord. No. 2021-004, 4-21-2021)

**5-1-5 Authority To Set Fees And Charges**

A. The city council may from time to time, by resolution, establish a schedule of fees and charges for services performed and licenses issued under this chapter. The fees and charges so established may recover all the reasonable costs of providing such services and issuing such licenses.

(Code 1998, § 5-1-4; Ord. No. 015-2008, 11-11-2008; Ord. No. 008-2014, 12-9-2014; Ord. No. 2015-006, 12-10-2015; Ord. No. 2021-004, 4-21-2021)

**5-1-6 Animal Control Officers Powers And Duties**

A. All animal control officers shall enforce all the provisions of this chapter and all state laws relating to the care, control and treatment of animals.

B. If any animal control officer has reasonable cause to believe that any person has violated any of the provisions set forth in this section, the officer may issue a citation to such person to appear in court to answer such charges.

C. Any animal control officer may seize, impound or dispose of any animal when authorized to do so by this chapter, or the laws of the state relating to the care, control or treatment of animals.

D. It shall be unlawful for any person to interfere, molest, hinder, or obstruct any animal control officer or any authorized representatives in the discharge of their duties as herein prescribed.

E. The animal control officer shall collect the carcasses of all dead animals and other vertebrate creatures, with the exception of wildlife, which are to be removed by the division of wildlife from the streets and elsewhere in the city or as required by the city, and deliver them, together with the carcasses of all animals the animal control officer shall have had put to death as herein provided, to the city's, or the city's contracted entity's, landfill for proper disposal.

F. Take into possession and impound all strays running at large and dispose of the same as hereinafter provided.

G. Enter a description thereof in records kept for that purpose stating the kind of animal, the circumstance under which received or impounded, and a description thereof sufficient to provide identification.

(Code 1998, § 5-1-6; Ord. No. 015-2008, 11-11-2008; Ord. No. 008-2014, 12-9-2014; Ord. No. 2015-006, 12-10-2015; Ord. No. 2021-004, 4-21-2021)

**5-1-7 Pounds, Impound Areas**

A. The city council may contract with a business, with an adjoining municipality or with the county for the purposes of providing suitable premises and facilities to be used by the city as an animal pound.

B. No unclaimed dog shall be released for adoption without being sterilized or without a written agreement from the adopter guaranteeing that such animal will be sterilized.

(Code 1998, § 5-1-7; Ord. No. 015-2008, 11-11-2008; Ord. No. 008-2014, 12-9-2014; Ord. No. 2015-006, 12-10-2015; Ord. No. 2021-004, 4-21-2021)

**5-1-8 Impoundment**

A. Any animal within the city which is, to the knowledge of the animal control officer

or state brand inspector, engaged in or existing in a condition prohibited by this chapter or state law, may be taken up and impounded pursuant to this section.

B. Any animal impounded under this section must have all fees paid before being released.

(Code 1998, § 5-1-8; Ord. No. 015-2008, 11-11-2008; Ord. No. 008-2014, 12-9-2014; Ord. No. 2015-006, 12-10-2015; Ord. No. 2021-004, 4-21-2021)

## 5-1-9 Bees

A. All bee colonies shall be kept in Langstroth type hives with removable frames, (approximate dimensions 9 1/2 inches depth, 14 1/2 inches width, 18 5/16 inches length). Brood hives and supers vary in depth. A colony will normally be kept in a brood hive with one or two supers. Equipment is to be kept in good operating condition.

B. All apiaries are to be located 20 feet or more from the property line, or beekeeper shall establish and maintain a flyway barrier at least six feet in height consisting of a solid wall, fence, dense vegetation or combination thereof.

C. Each beekeeper shall ensure that a convenient source of water is available at all times so that the bees will not congregate at swimming pools, pet water bowls, birdbaths or other water sources where they may cause human, bird or domestic pet contact. Normal private bee keeping activities in the city would include one or two bee colonies. Up to four colonies are permitted.

D. If a beekeeper wishes to keep more than four colonies, the beekeeper is required to apply for and receive a conditional use.

E. Bee colonies may be kept in all zones of the city as long as these guidelines are met, and all beekeepers follow state regulations for licensing.

(Code 1998, § 5-1-9; Ord. No. 015-2008, 11-11-2008; Ord. No. 008-2014, 12-9-2014; Ord. No. 2015-006, 12-10-2015; Ord. No. 2021-004, 4-21-2021)

## 5-1-10 Cats

A. No person owning or otherwise having a cat over six months of age in that person's care, charge, control, custody, or possession, shall cause, permit or allow such cat to be in or on a public street, road, alley or other public place unless said cat is spayed or neutered.

B. The city shall not be responsible for the capture and disposal of cats.

C. The city will have live traps available for those who wish to use them (a refundable deposit is required).

D. It shall be unlawful for any person to own, keep, maintain, possess or harbor

upon the premises of one household, other than a veterinary clinic, more than three cats. An owner or keeper of cats may keep one litter of cats intact until the cats reach six months of age. At no time shall the owner or keeper retain more than three cats over the age of one year.

(Code 1998, § 5-1-10; Ord. No. 015-2008, 11-11-2008; Ord. No. 008-2014, 12-9-2014; Ord. No. 2015-006, 12-10-2015; Ord. No. 2021-004, 4-21-2021)

**5-1-11 Dogs**

A. It shall be unlawful for any person to own, keep, maintain, possess or harbor upon the premises of one household, other than a veterinary clinic, more than three dogs over three months of age. If more than three dogs over the age of three months are at the same residence, it shall be considered the operation of a dog kennel and shall require a kennel license.

(Code 1998, § 5-1-12; Ord. No. 015-2008, 11-11-2008; Ord. No. 008-2014, 12-9-2014; Ord. No. 2015-006, 12-10-2015; Ord. No. 2021-004, 4-21-2021)

**5-1-12 Dog Licensing**

A. *Time for obtaining license; effective date*.

1. It is unlawful for any person to keep, harbor, or maintain any dog two or more months old unless such dog has been registered and licensed in the manner herein provided.
2. The annual fee due and payable pursuant to this chapter shall be due January 1 and shall be delinquent after January 31 of each year.
3. The owner of any newly acquired dog of licensing age or any dog which attains licensing age after September 15 of any year shall make an application for registration and license within 15 days after acquisition of such dogs that attain the above-stated age. The license fee shall be one-half of that required for new applications received after September 1 of any year.

B. *Application; expiration*.

1. Application for registration and licensing shall be made to the city. The owner shall state at the time application is made for such license the applicant's name, address, telephone number, sex, breed, spayed or neutered, age (if under 12 weeks) and color of each dog owned or kept by the owner.

C. *License fees*.

1. No dog license shall be issued by the city until the fee required herein has been paid. The fees shall be set by resolution by the city council.
2. The fee due and payable pursuant to this subsection shall be due January 1 and shall be delinquent after January 31 of each year. The penalty shall be set by resolution of the city council.
3. Kennel fees for those owning, keeping, harboring, or maintaining more than three dogs over the age of three months at the same residence shall be as established by resolution of the city council.
4. The license fee shall cover the calendar year in which the license was issued, expiring on December 31 of the year of issuance, regardless of the date when issued.

D. *License tags*.

1. A dog license shall be issued by the city. Upon the payment of the license fee, and with the proof of current rabies vaccination, the city shall issue to the owner a license certificate and a metallic tag for each dog so licensed. The tag shall be changed each year and shall have stamped thereon the year for which it was issued and the number corresponding with the number on the certificate. Every dog owner shall provide each dog with a collar to which the license tag shall be affixed. It shall be unlawful to deprive a registered dog of its collar and/or tag when the dog is off the owner's property.
2. In case a dog tag is lost or destroyed, a new tag will be issued by the city upon presentation of a receipt showing the payment of the license fee for the current year and payment of a replacement tag fee as established by resolution of the city council.
3. Dog tags shall not be transferable from one dog to another, and no refunds shall be made on any dog license fee because of death of the dog, owner disposing of the dog or the owner leaving town before expiration date of the license period.

E. *Service dogs*.

1. All service dogs that are furnished to or owned by a qualified handicapped individual shall be registered with the city and as required by this chapter and be vaccinated as required by this chapter. The city will not charge a fee for the registration, but all other payments to meet the requirements of this chapter are the responsibility of the dog owner.
2. Service animals that are used by any law enforcement officials or search and rescue shall not be required to have a city license as long as such dog is on task under the command/control of the trainer/officer.

(Code 1998, § 5-1-13; Ord. No. 015-2008, 11-11-2008; Ord. No. 008-2014, 12-9-2014; Ord. No. 2015-006, 12-10-2015; Ord. No. 2021-004, 4-21-2021)

**5-1-13 Control Of Rabies And Rabid Animals**

A. Rabies vaccinations shall be required of all dogs in the city. All dogs shall be required to have a current rabies vaccination certificate on file with the city and all applicable tags must be worn when not in the home. Any dog found outside of the owner's home without current vaccination tags on either its collar or harness shall be considered to be in violation of this section. Exception: The owner of the dog provides documentation from a certified veterinarian stating that there is a medical reason that prevents the vaccination from being administered. The nature of reason and the estimated date of termination thereof shall be shown.

B. Every owner of any dog within the city which is over the age of six months, shall have the dog vaccinated against rabies by a duly licensed veterinarian, and shall secure from the veterinarian a certificate thereof, and shall attach to the collar or harness, which such person is required to place upon the dog, a tag showing that such vaccination has been done.

C. Anyone having knowledge of the whereabouts of an animal known to have, or suspected of having, rabies, shall report the animal immediately to the city animal control officer. The city animal control officer shall likewise be notified of any person or animal bitten by a rabid or suspected rabid animal.

D. Any dog or other animal of a species subject to rabies which is known to have bitten or injured any person so as to cause an abrasion of the skin shall be quarantined and the following provisions shall apply:

    1. The animal shall be observed for a period of not less than ten days by the animal control officer through the Bear River District Health Department, and the owner of the animal shall be responsible for the total cost of the quarantine.

    2. The normal place of such quarantine shall be the city's animal shelter; however, other arrangements suitable to the city may be made for a period of observation specified herein upon the condition that the biting animal had a current rabies vaccination at the time the bite is inflicted.

    3. A person having custody of an animal under quarantine at a place other than the city's animal shelter shall immediately notify the city if the animal shows any signs of sickness or abnormal behavior, or if the animal escapes from quarantine.

    4. It shall be unlawful for any person that has custody of a quarantined animal to fail or refuse to call an officer of the city, or a veterinarian, to make an inspection or examination of the animal during, and/or at the end of the period of quarantine.

5. If the quarantined animal dies within ten days from the date of the bite for which the animal was quarantined, the person having custody of said animal shall immediately notify the city of such fact and immediately deliver the animal to that person's veterinarian for removal of head of such animal which shall be delivered to a laboratory specified by the Bear River District Health Department for examination for rabies.
6. At the end of the quarantine period, the animal control officer, or the animal control officer's designee, shall examine the quarantined animal, and if no signs of rabies are present in the animal, the animal may be released to its owner. Stray animals shall be disposed of.
7. Any animal of a species subject to rabies which has been bitten by a known rabid animal or has been in intimate contact with a rabid animal shall be isolated, at the owner's expense, in a suitable place approved by the city or animal control officer for a period of 120 days or destroyed.
8. Any regulation of this section may be regulated more stringent through the state code. If so, the state code shall apply.

(Code 1998, § 5-1-14; Ord. No. 015-2008, 11-11-2008; Ord. No. 008-2014, 12-9-2014; Ord. No. 2015-006, 12-10-2015; Ord. No. 2021-004, 4-21-2021)

**5-1-14 Domestic Animals, Used As Pets**

A. Animals, birds, and rodents that are not included in any other section of this chapter may be considered domestic pets and shall be allowed in the zones allowed for such.

B. Pot-bellied pigs are not allowed in the city.

C. Small miniature farm animals are not allowed as pets.

(Code 1998, § 5-1-15; Ord. No. 015-2008, 11-11-2008; Ord. No. 008-2014, 12-9-2014; Ord. No. 2015-006, 12-10-2015; Ord. No. 2021-004, 4-21-2021)

**5-1-15 Exotic Animals**

A. Exotic animals are not allowed in the city.

(Code 1998, § 5-1-16; Ord. No. 015-2008, 11-11-2008; Ord. No. 008-2014, 12-9-2014; Ord. No. 2015-006, 12-10-2015; Ord. No. 2021-004, 4-21-2021)

**5-1-16 Fish**

A. Any fish that are kept on the property, other than as household pets, shall be regulated as per state regulations.

(Code 1998, § 5-1-18; Ord. No. 015-2008, 11-11-2008; Ord. No. 008-2014, 12-9-2014; Ord. No. 2015-006, 12-10-2015; Ord. No. 2021-004, 4-21-2021)

## 5-1-17 Fowl

A. No person shall keep on any premises owned, occupied or controlled by that person any chickens, ducks, geese, pigeons or other domestic fowl unless such fowl is kept in an enclosure sufficient in all respects to the keeping of such fowl.

(Code 1998, § 5-1-19; Ord. No. 015-2008, 11-11-2008; Ord. No. 008-2014, 12-9-2014; Ord. No. 2015-006, 12-10-2015; Ord. No. 2021-004, 4-21-2021)

## 5-1-18 Livestock

A. *Open space for livestock*.

| *Type* | *Area per Animal* |
|---|---|
| Horses, mules, cattle, llamas, etc. | 5,000 square feet |
| Sheep, goats, etc. | 1,000 square feet |

B. *Enclosures for livestock*.

| *Type* | *Area Per Animal* |
|---|---|
| Horses, mules, cattle, llamas, etc. | 800 square feet |
| Sheep, goats, etc. | 200 square feet |

C. *Enclosures and feeders*.

1. Enclosures or feeders for livestock shall not be placed and used within 40 feet of a property line of a house/residence, school, church, business, or any other structure used as human habitation. This shall not apply to a residence owned or occupied by the person owning or in possession of such animals as long as it does not abut closer than the required 40 feet of the abutting property.

D. *Standards of care*.

1. Any person owning or having custody or control of any livestock shall provide it with necessary food, drink and shelter and at nighttime shall secure it in a pen, corral or barn, or by such other humane means that will

effectively restrain it from wandering. A stable, pen, stall, corral or other structure/enclosure shall be no smaller than ten feet by ten feet in size for each horse, cow, mule or llama. This same size enclosure may house up to five sheep, goats, etc.

2. Every person who stables, keeps, pastures or maintains livestock in the city shall at all times keep the stable and/or enclosure in which livestock is kept, clean and free from manure, mud, and everything of a foul and unclean nature. Odor and flies shall be controlled. Stables, corrals and enclosures of less than 80 square feet shall be cleaned no less than weekly, and the material removed from the premises.
3. Drinking water source protection. See PCC chapter 8-1A for additional regulations.

(Code 1998, § 5-1-20; Ord. No. 015-2008, 11-11-2008; Ord. No. 008-2014, 12-9-2014; Ord. No. 2015-006, 12-10-2015; Ord. No. 2021-004, 4-21-2021)

**5-1-19 Wildlife**

A. Wildlife shall be regulated and controlled by the division of wildlife.

(Code 1998, § 5-1-21; Ord. No. 015-2008, 11-11-2008; Ord. No. 008-2014, 12-9-2014; Ord. No. 2015-006, 12-10-2015; Ord. No. 2021-004, 4-21-2021)

**5-1-20 Animals Kept In Vehicles**

A. An animal shall not be confined in a vehicle unless there is adequate ventilation, and unless the temperature or other conditions do not threaten the health of the animal. If the animal is confined in a vehicle in a manner that threatens its health, any animal control officer or police officer may enter the vehicle by whatever force is necessary to release the animal without liability upon the city or any person for resulting damage.
B. Any person who owns or has custody or control of an animal that has been confined in a vehicle in a manner that threatens its health may be charged with a violation as provided for in this chapter.
C. Any animal that has been confined in a vehicle in violation of this section may be impounded pending a hearing to determine if the animal shall be returned to its owner. In the event of such impoundment, the owner or keeper of the animal shall be liable for all costs and expenses of impounding and/or keeping the animal.

(Code 1998, § 5-1-22; Ord. No. 015-2008, 11-11-2008; Ord. No. 008-2014, 12-9-2014; Ord. No. 2015-006, 12-10-2015; Ord. No. 2021-004, 4-21-2021)

## 5-1-21 Animal Feed, Bedding Stored On City Property

A. Hay, grain, straw or other types of feed or bedding shall not be fed, placed or stored on city property.

(Code 1998, § 5-1-23; Ord. No. 015-2008, 11-11-2008; Ord. No. 008-2014, 12-9-2014; Ord. No. 2015-006, 12-10-2015; Ord. No. 2021-004, 4-21-2021)

## 5-1-22 Public Nuisances Prohibited

A. No owner or person having an animal in that person's care, charge, control, custody or possession shall permit or allow the existence of a public nuisance, including, but not limited to, the following:

1. Permit such animal to obstruct the reasonable and comfortable use of property in any neighborhood or community by running at large, chasing vehicles, molesting passersby while at large, or barking.
2. No person shall own, keep, or harbor any animal which by loud, continued or frequent barking, howling, yelping, screeching, bawling, crowing, or making other noises create a disturbance. Exception: Animals legally contained on private property that are harassed by people, trespassing animals, animals at large, or unlicensed dog may be temporarily excluded if it is determined that these conditions for disturbance do exist.
3. Permit unsanitary conditions to exist on the premises where such animals are kept which would cause odors, attract flies or vermin, or which would otherwise be injurious to the public health, be offensive to the senses, or be an obstruction to the free use of the property.

B. A violation of this subsection shall be a Class C misdemeanor, subject to penalty as provided in PCC 1-4-1, and such is hereby declared to be a nuisance. Each day a violation is permitted to exist or continue, shall constitute a separate offense.

(Code 1998, § 5-1-24; Ord. No. 015-2008, 11-11-2008; Ord. No. 008-2014, 12-9-2014; Ord. No. 2015-006, 12-10-2015; Ord. No. 2021-004, 4-21-2021)

## 5-1-23 Odor And Fly Control

A. Odors and flies from animal operation/keeping shall be controlled. Odors detected from animal operations are a complex mixture of gases.

B. All animals give off natural odors. Most often the odor and presence of flies is a result of uncontrolled anaerobic decomposition of manure and feed spoilage.

Owner will minimize the annoyance to the majority of the neighbors, at the same time protect the rights of the animal owner.

1. One day out of the week is not a nuisance.
2. Several neighborhood people (three or more) smelling odors from a facility for four days out of the week makes the odor a nuisance.
3. A high accumulation of flies that is abnormal for the location and attracted to the animal operation is considered a nuisance.

(Code 1998, § 5-1-25; Ord. No. 015-2008, 11-11-2008; Ord. No. 008-2014, 12-9-2014; Ord. No. 2015-006, 12-10-2015; Ord. No. 2021-004, 4-21-2021)

## 5-1-24 Cruelty To Animals

A. No person shall:

1. Mistreat, tease or torment any animal.
2. Treat any animal in a cruel or inhumane manner.
3. Abandon or turn out any animal.
4. Poison any domestic animal.
5. Fail to provide proper care for any animal.
6. Intentionally exhibit any stud, horse, or bull or any other animal indecently.
7. Maintain any place where any fowl or other animals are suffered to fight upon exhibition.

(Code 1998, § 5-1-26; Ord. No. 015-2008, 11-11-2008; Ord. No. 008-2014, 12-9-2014; Ord. No. 2015-006, 12-10-2015; Ord. No. 2021-004, 4-21-2021)

**State law references**—Cruelty to animals, U.C.A. 1953, § 76-9-301 et seq.; authority to prohibit cruelty to animals, U.C.A. 1953, § 10-8-59.

## 5-1-25 Dangerous Or Vicious Animals

A. It shall be unlawful for any person to own or possess any vicious animal within the city.

B. Any person that owns or has custody or control of any animal known by that person to be dangerous to the safety of any person or other animal, or any animal about which any animal control officer has given notice in writing to the owner or custodian thereof of a suspected dangerous propensity, shall keep such animal

safely and securely restrained at all times. Any such animal which is allowed beyond safe and secure restraint is a public nuisance, and the owner and keeper of such an animal may be charged with a violation as provided in this chapter.

C. Any person who owns or has custody of any animal which causes physical injury to any person or animal while not restrained may be charged with a violation.

D. If an animal control officer has probable cause to believe that an animal poses an immediate threat to public safety, the animal may be seized and impounded pending a hearing in the municipal court to determine if the animal is a public nuisance. if the court so determines, the court may order the nuisance abated and such other relief the court deems proper.

E. If the animal that has been impounded is found by the court to be a nuisance, the owner or keeper of the animal shall be liable for all costs and expenses of impounding and keeping of the animal.

(Code 1998, § 5-1-27; Ord. No. 015-2008, 11-11-2008; Ord. No. 008-2014, 12-9-2014; Ord. No. 2015-006, 12-10-2015; Ord. No. 2021-004, 4-21-2021)

## 5-1-26 Animals At Large

A. No person owning or having the custody or control over any animal shall permit such animal to run at large, or be pastured, herded, or tied in any street, alley, or other public place.

B. In addition to the provisions of this section, the owner of an animal found in violation shall be fined $50.00 for the first incident. With each additional incident, the owner shall be fined twice the amount of the previous fine.

C. The owner of any animal which is in violation of the provisions of this section five or more times may be required by the court to remove the animal from the premises.

(Code 1998, § 5-1-28; Ord. No. 015-2008, 11-11-2008; Ord. No. 008-2014, 12-9-2014; Ord. No. 2015-006, 12-10-2015; Ord. No. 2021-004, 4-21-2021)

## 5-1-27 Vehicular Accidents With Animals; Duties

A. Any operator of a vehicle whose vehicle strikes an animal shall stop at once and immediately report any injury or death to the animal's owner. If the owner cannot be ascertained and located, the operator shall at once report the accident to the sheriff's office.

(Code 1998, § 5-1-29; Ord. No. 015-2008, 11-11-2008; Ord. No. 008-2014, 12-9-2014; Ord. No. 2015-006, 12-10-2015; Ord. No. 2021-004, 4-21-2021)

## 5-1-28 Responsibility

A. No person shall create or maintain any condition or keep any animal, fowl, household pet, or insect under that person's jurisdiction in such a way that such condition or operation is likely to cause the transmission of any diseases.

B. No owner, keeper, caretaker, or attendant of an animal, shall allow an animal to defecate on public property, including, but not limited to, sidewalks, streets, planting strips, parking lots, parks, trails, and recreational areas or on private property not in the ownership or control of the person having control or purporting to have control over or charge of such animal. If such animal does defecate upon public or private property, the owner, keeper, caretaker, or attendant must immediately and thoroughly clean the fecal matter from such property.

C. Anyone walking, driving, or riding an animal on public or private property other than that person's own must carry with that person visible means of cleaning up any fecal matter left by the animal. Animals used during parades or used in law enforcement are exempt from this section.

D. No vehicle, trailer or other conveyance used to transport animals shall be cleaned out and the fecal matter deposited upon any public property.

E. No animals are allowed in city parks unless the area is designated for animals.

F. Any person violating the foregoing subsections shall be guilty of an infraction and shall be subject to a fine of not more than $50.00.

(Code 1998, § 5-1-30; Ord. No. 015-2008, 11-11-2008; Ord. No. 008-2014, 12-9-2014; Ord. No. 2015-006, 12-10-2015; Ord. No. 2021-004, 4-21-2021)

## 5-1-29 Loud Or Offensive Animals; Penalty

No person shall own, keep, or harbor any dog which by loud, continued, or frequent barking, howling, yelping, or by noxious or offensive odors shall annoy, disturb, or endanger the health and welfare of any person or neighborhood. A violation of this subsection shall be a Class C misdemeanor, subject to penalty as provided in PCC 1-4-1, and such is hereby declared to be a nuisance, and each day a violation is permitted to exist or continue shall constitute a separate offense. The owner of a dog found in violation of the provisions of this section on five or more separate occasions may be required by the court to permanently remove the dog from the premises. This subsection shall not apply to the city pound, veterinary hospitals, or medical laboratories.

(Code 1998, § 5-1-31; Ord. No. 015-2008, 11-11-2008; Ord. No. 008-2014, 12-9-2014; Ord. No. 2015-006, 12-10-2015; Ord. No. 2021-004, 4-21-2021)

# CHAPTER 5-2 CRIMINAL CODE AND MISCELLANEOUS OFFENSES

5-2-1 State Criminal Code Adopted By Reference
5-2-2 Abusive Language

### 5-2-1 State Criminal Code Adopted By Reference

Except insofar as the application thereof is clearly impractical or inappropriate, in view of the context of purposes or penalty as provided, all of the definitions, requirements, regulations, prohibitions, provisions and sections of the Utah Criminal Code (U.C.A. 1953, title 76), as amended, are hereby adopted by the city. Any and all violations thereof shall be considered violations of this chapter, and each such violation shall subject the violator thereof to penalty provisions under this chapter.

(Code 1998, § 5-2-1)

### 5-2-2 Abusive Language

It shall be unlawful for any person to use abusive, menacing, insulting, slanderous, profane or lewd language within the limits of the city that is reasonably foreseeable to provide an immediate breach of the peace.

(Code 1998, § 5-8-4)

## CHAPTER 5-3 CURFEW; MINORS

5-3-1 Declaration Of Findings And Policy
5-3-2 Prohibited Acts; Exceptions

### 5-3-1 Declaration Of Findings And Policy

The city council finds that it is in the best interest of the city and the citizens thereof to establish a uniform curfew policy because it:

A. Provides a clear message about appropriate norms for youth in our community;

B. Provides clear boundaries and supervision;

C. Reduces crime;

D. Provides parents with an extra tool to keep children safe, as youths who are off the streets at night are less likely to be victims of crimes; and

E. Provides police more resources through this written policy to fight crime in our community.

(Code 1998, § 5-3-1; Ord. No. 97-OM005, 5-27-1997)

### 5-3-2 Prohibited Acts; Exceptions

A. *Sunday through Friday*. It is unlawful for any minor under 18 years of age to remain or loiter in any of the sidewalks, streets, alleys or public places in the city between 10:30 p.m. and 5:00 a.m. immediately following, from Sunday evening

through Friday morning.

B. *Friday through Sunday*. It is unlawful for any minor under 18 years of age to remain or loiter in any of the sidewalks, streets, alleys or public places in the city between 12:00 midnight and 5:00 a.m. immediately following from Friday evening through Sunday morning.

C. *Parents' responsibility*. It is unlawful for any parent, guardian or other person having legal care and custody of any minor under 18 years of age to allow such minor to remain or loiter in any of the sidewalks, streets, alleys or public places in the city, within the times provided in subsections A and B of this section, except as provided in subsection D of this section.

D. *Exceptions*. The provisions of subsections A, B and C of this section shall not apply where the minor under 18 years of age is:

1. Married;
2. Accompanied by a parent, guardian or other adult person having care of such minor;
3. Returning home from, going to or being in attendance at any religious or school function, organized dance, theater, sports event or other such associational activity; provided, however, that going to or from such activity shall be by a direct route and within a reasonable time of the commencement or termination or such event;
4. Engaged in a legitimate emergency errand;
5. Engaged in legitimate employment and can produce evidence of such employment; or
6. In a motor vehicle engaged in normal travel, while traveling to, from or through the city on an interstate trip.

(Code 1998, § 5-3-2; Ord. No. 97-OM005, 5-27-1997)

## CHAPTER 5-4 FENCE REGULATIONS


5-4-1 Objective
5-4-2 (Reserved For Future Use)
5-4-3 Permits
5-4-4 Limitations
5-4-5 Materials
5-4-6 Temporary Fencing
5-4-7 Swimming Pools, Pools, Hot Tubs And Spas
5-4-8 Living Fences
5-4-9 Installation Requirements
5-4-10 Special Cases
5-4-11 Established

## 5-4-1 Objective

This chapter has been created to allow a citizen to enhance private property without compromising public safety and the safety of the community.

(Code 1998, § 5-4-1; Ord. No. 006-2011, 7-26-2011)

## 5-4-2 (Reserved For Future Use)

## 5-4-3 Permits

No permit is required for any fence six feet or less in height, on or inside your property line.

A. Fences higher than six feet require a building permit.

B. Homeowners' associations may have deed restrictions for construction of any fence. They may have additional regulations regarding building materials, height and location. Any regulations that exceed city requirements will be enforced through the homeowners' associations or deed restrictions.

C. Permits issued previously continue in force and shall be deemed to be issued for enforcement purposes.

(Code 1998, § 5-4-3; Ord. No. 006-2011, 7-26-2011)

## 5-4-4 Limitations

It is the responsibility of the owner or agent to erect a fence in conformance compliance with the city laws or ordinances.

A. The property/lot owner needs to take every precaution to ensure that the fence will be erected on their property. If there is reason to believe that there may be a conflict or a problem with the neighbors, the property owner wishing to erect the fence should try to resolve these problems before installing a fence.

B. Dog runs may be installed as long as they meet the height and material as specified for fence construction. Dog runs shall not be installed on property lines.

C. Fences abutting city property are not permitted to be installed on the property line.

D. Each zoning district/area has special requirements for setback and fence heights. Zoning maps are available at the city office.

E. Before constructing a fence in a drainage easement, contact the city.

F. On a drainage or irrigation easement, an owner may fence the owner's property,

but the water flow cannot be interrupted and must allow full access to the holder of the easement for the purpose of the easement. This may require gates to access the property with both foot traffic and equipment required to maintain the ditch or pipe. It is the responsibility of the property owner to contact those who own the easements and get approval of the fence, gate, etc., design.

G. Contact the city building department for approval of any fence exceeding six feet in height.

H. For all fences other than those on single family or duplex lots, contact the city building department.

I. Any fence that fully encloses a yard may require access to read the utility meters and for utility access.

J. Fire hydrants shall not have access blocked. No fence shall be constructed closer than three feet on any side or to the rear of a fire hydrant. Front access shall be totally open and unrestricted.

K. No person shall build a fence that, by its construction, material or design, presents an unsightly appearance.

L. No person shall build or maintain a fence that, by its construction, presents a hazard to any person or domestic animal.

(Code 1998, § 5-4-4; Ord. No. 006-2011, 7-26-2011)

**5-4-5 Materials**

All fences, regardless of whether or not a permit is required for their construction, that are constructed, repaired, expanded, or enlarged, shall be constructed only of approved fence materials.

A. Approved fence materials shall mean materials normally manufactured for, used as, and recognized as, fencing materials such as wrought iron or other decorative metals suitable for the construction of fences, masonry, concrete, stone, chain-link, metal tubing, wood planks, and vinyl or fiberglass composite manufactured specifically as fencing materials that are approved by the city.

B. The city is authorized to evaluate proposed fence material and to determine if the proposed material is satisfactory and complies with the intent of the provisions of this Code, and that the material is, for the purpose intended, at least the equivalent of that prescribed in this chapter in quality, strength, effectiveness, durability and safety.

(Code 1998, § 5-4-5; Ord. No. 006-2011, 7-26-2011)

**5-4-6 Temporary Fencing**

Any temporary fencing on, in or around a construction site shall be installed as per approved construction drawings.

A. The public works director is authorized to approve and require temporary fencing, such as plastic silt fence, safety fencing, and other devices at active construction projects which do not have construction drawings.

B. Temporary fencing shall not remain in place longer than is necessary to perform its function.

(Code 1998, § 5-4-6; Ord. No. 006-2011, 7-26-2011)

**5-4-7 Swimming Pools, Pools, Hot Tubs And Spas**

Every swimming pool, pool, hot tub and spa shall have an adequate enclosure erected around it in accordance with this chapter.

A. Every enclosure for a pool shall be:

    1. At least five feet in height; and

    2. Of a close-boarded, chain-link or other approved design, to reasonably deter children from climbing it to gain access to the fenced in area.

B. Openings through or under any part of the enclosure shall be of a size so as to prevent the passage of a spherical object having a diameter of three inches.

C. Gates in the enclosure shall:

    1. Provide protection to the enclosure;

    2. Be equipped with a self-closing and latching device located at the top and inside of the gate; and

    3. Be lockable.

D. Barbed wire or fencing energized by electrical current, sharp projections or any other dangerous characteristics shall not be used as an enclosure for the pool.

E. Where a wall of a building is used as part of the enclosure, all doors located in the wall of the building shall be equipped with self-closing, self-latching and locking devices, or in the case of a door, located a minimum of 4.5 feet above the door threshold.

F. In lieu of fencing, spas and hot tubs may have a lockable cover which is capable of supporting a minimum of 150 pounds, and such cover shall be locked whenever such spa or hot tub is not in use.

(Code 1998, § 5-4-7; Ord. No. 006-2011, 7-26-2011)

## 5-4-8 Living Fences

Living fences constructed abutting city property shall be installed a minimum of three feet from the property line.

A. The face of the living fence shall be maintained in the vertical fashion so as not to protrude closer to the sidewalk than 12 inches.

B. Living fences shall be maintained in a neat and trimmed condition.

C. Living fences shall adhere to all ordinances pertaining to the required clear-view areas of driveways and street corners.

D. Trees shall be planted and spaced to allow for the open transparent area of each clear-view area.

E. Trees shall be planted at a spacing of no closer than 25 feet.

(Code 1998, § 5-4-8; Ord. No. 006-2011, 7-26-2011)

## 5-4-9 Installation Requirements

Fence construction and installation shall be as per the following:

A. *Corner lots*. Fences on corner lots are subject to PCC 10-9-2.

B. *Clear-view areas*. Fences installed in areas where clear-view areas must be maintained, shall be constructed as set forth in PCC 10-9-2.

C. *Height*. All fences shall be subject to the height limitations as set forth in PCC 10-8-1. If a fence is constructed on top of a wall, height shall be counted from the bottom of the wall to the top of the fence.

D. *Adjacent property*. A fence may be constructed on the property line between the adjacent property owners as long as they agree in writing to a common fence. Otherwise, all elements of the fence shall be on the proposed fence builder's property.

E. *City property*. Fences constructed to serve private property shall not be constructed on or project into City property.

F. *Property markers*. Property markers shall be identifiable and located prior to the construction of a fence.

G. A retaining wall is considered part of a fence and is subject to the height restrictions of PCC 10-8-1. Retaining walls which include footings over 48 inches (four feet) in height, require a building permit and engineering.

H. All fences and walls shall be constructed with the finished (smooth) side facing outward from the property and facing the public right-of-way, common open

space, or other public places. The posts and support beams shall be on the inside (or shall be designed as a part of finished surface).

I. No barbed wire fences or electrical charged fences shall be allowed in residential zoned districts, unless the owner of property has a valid livestock permit, or the site has been approved with a plan which includes barbed wire fencing for security purposes.

    1. Any barbed wire fence being replaced must be replaced with smooth wire.

J. Chain-link fences must have barbed ends pointing down.

(Code 1998, § 5-4-9; Ord. No. 006-2011, 7-26-2011)

**5-4-10 Special Cases**

Single-family residential lots. Some hillside or extreme sloped lots may require limited construction of additions to and exceeding the regular fence height restrictions. Lots that slope away from driveways, parking areas, structures or other areas that require any extreme slope changes such as, but not limited to, stepped fencing, or is abounded by and/or ends at a concrete retaining wall (a retaining wall four feet or less in height or an engineered retaining wall if it exceeds four feet in height), with or without a fence atop the retaining wall, may, with the immediate abutting property owners written approval, and engineering design and approval; for safety and ascetic reasons, may taper a maximum of 16 feet of downhill fence from a height not to exceed nine feet at the top where it adjoins an existing wall, fence or structure. The downhill/slope then must match the requirements for established fence height as is required by zoning requirements for the lot. Plans and adjoining property owners' approval shall be submitted to the building department for approval.

(Code 1998, § 5-4-10; Ord. No. 006-2011, 7-26-2011)

**5-4-11 Established**

Nothing in this chapter shall prevent the continued use and maintenance of a fence if such fence was lawfully erected in conformity with the provisions of previous ordinances and used on the date of enactment of the ordinance from which this chapter is derived.

(Code 1998, § 5-4-11; Ord. No. 006-2011, 7-26-2011)

**CHAPTER 5-5 FENCES IN COMMERCIAL ZONES**

5-5-1 Objective
5-5-2 (Reserved For Future Use)
5-5-3 Permits
5-5-4 Dumpsters, Trash Collection Enclosures And Areas
5-5-5 (Reserved For Future Use)

5-5-6 Fences, Rear, Side
5-5-7 Finished Side Of Fence
5-5-8 Corner And Driveway Clear-View Areas
5-5-9 Existing Fences

## 5-5-1 Objective

This chapter has been created to provide guidelines for using fencing to enhance commercial property without compromising public safety and the safety of the community.

(Code 1998, § 5-5-1; Ord. of 9-25-2007)

## 5-5-2 (Reserved For Future Use)

## 5-5-3 Permits

Fences constructed on commercial property will be reviewed as part of the design review process. Additional permits may apply.

A. A conditional use permit is required for front yard and street side yard fences.

B. A building permit is required for any fence over six feet in height. The fence shall be engineered, with drawings stamped and signed by a licensed engineer. The fence shall be built to the manufacturer's specifications.

C. In addition to a building permit, fences over eight feet shall require a conditional use permit.

D. A building permit is required for retaining walls over four feet in height, including the foundation.

(Code 1998, § 5-5-3; Ord. of 9-25-2007)

## 5-5-4 Dumpsters, Trash Collection Enclosures And Areas

Dumpsters or trash collection areas may be fenced on three sides. Gates, if required/utilized, will compose the fourth side.

A. Fences and gates shall be six feet in height and constructed of approved fencing material.

B. If the dumpster enclosure faces away from a city street, gates will not be required.

C. For trash removal, gates shall have a latch to hold them in a total open position.

D. Fences shall be constructed with a nontransparent material.

E. Gates shall be constructed as opaque screen design.

F. Enclosures shall not be located between the front line of the primary building and the front lot line.

G. No other storage or garbage or waste containers are allowed inside of or in front of the enclosures.

H. Enclosures shall have a minimum of 60 feet of straight unobstructed approach to the compound.

I. Enclosures shall meet the city's, or the city's contracted entity's, solid waste department specifications.

(Code 1998, § 5-5-4; Ord. of 9-25-2007)

**5-5-5 (Reserved For Future Use)**

**5-5-6 Fences, Rear, Side**

A. In a Commercial Neighborhood District (CND), side and rear yard fences shall not exceed six feet in height.

B. Barbed wire shall only be used on fences eight feet in height or higher and shall not exceed 12 inches in height and should point upwards or into the private property.

C. No concertina or razor wire is allowed.

(Code 1998, § 5-5-6; Ord. of 9-25-2007)

**5-5-7 Finished Side Of Fence**

A. All fences shall be constructed with the face, or finished side, away from the property and the structural side toward the interior.

(Code 1998, § 5-5-7; Ord. of 9-25-2007)

**5-5-8 Corner And Driveway Clear-View Areas**

Corner and driveway clear-view areas shall be maintained with all fences.

A. Driveway clear-view areas may require a fence to be angled from ten feet on each side of the driveway to ten feet inside property. On inner block fences, a fence corner that abuts adjacent driveways shall require a ten-foot clear-view area and the fence built accordingly.

B. If the property is a corner lot, then the clear-view area shall be 30 feet along the front and street side of the property.

(Code 1998, § 5-5-8; Ord. of 9-25-2007)

### 5-5-9 Existing Fences

With the exception of normal repair and maintenance, any fence which was erected in compliance with the requirements of the then-existing Providence City Code, but which does not conform with the provisions of this chapter, shall not be altered, enlarged or replaced without making the entire fence conform with the provisions of this chapter and all other applicable city ordinances.

(Code 1998, § 5-5-9; Ord. of 9-25-2007)

## CHAPTER 5-6 (RESERVED FOR FUTURE USE)

## CHAPTER 5-7 LEWDNESS, PROFANITY, NUDITY, OBSCENITY AND PORNOGRAPHY

5-7-1 Unlawful Acts
5-7-2 (Reserved For Future Use)
5-7-3 (Reserved For Future Use)
5-7-4 Separate Offenses

### 5-7-1 Unlawful Acts

The following acts are hereby declared to be unlawful if done in any public place:

A. The use of abusive, menacing, insulting, slanderous or profane language; or the uttering of obscenities.

B. For any person to willfully participate in any patently offensive act, representation or description of ultimate sexual acts, whether normal or perverted, actual or simulated.

C. To knowingly or willfully bathe in the nude in public or in such a manner that the nude body is exposed to the view of other persons.

D. To willfully participate in or allow patently offensive acts, representations or descriptions of excretory functions and/or lewd exhibition of the genitals.

E. To expose a person's private parts or go nude, or topless (if female) or bottomless in any public place or to procure, counsel, or assist any other person to so expose themselves.

F. To urinate or stool in any public place (except public restrooms) or in any place exposed to public view or to procure, counsel, or aid any other person to so do.

G. To possess, import, write, compose, stereotype, print, design, copy, draw, paint, or otherwise prepare, publish, offer for sale, display, exhibit by machine or otherwise or distribute or furnish any writing, paper, book, picture, magazine,

pamphlet, print, design, figure, still or motion picture, photograph, or negative thereof, photocopy, engraving, sound or video recording, card, instrument or other such article which depicts or represents or describes any obscene sexual conduct, or obscene performance or sadomasochistic abuse, with the intent to distribute or exhibit the same or use the same for advertising purposes, or to exhibit the same in any public place.

H. To buy, procure, receive or possess any writing, paper, book, picture, drawing, magazine, pamphlet, print, design, figure, still or motion picture, photograph or negative thereof, photocopy, engraving, sound or video recording, card instrument or other article which depicts or represents or describes obscene sexual conduct and/or obscene performance, obscenities or sadomasochistic abuse with the intent to distribute or exhibit the same, or to exhibit the same in any public place, or use the same for advertising purposes.

I. For any person, firm, or corporation to distribute or to exhibit any materials as obscene materials, whether or not the same are actually obscene, or to advertise as obscene any publications, film, picture or writing when-the act of so doing shall amount to pandering or advertising of obscene materials.

J. For any distributor or wholesaler to require as a condition to a sale, allocation, consignment or delivery for resale of any paper, magazine, book, periodical, publication, film, or other merchandise that the purchaser, consignee, or distributor receive any other material, which is obscene or is believed by the purchaser or consignee to be obscene or is advertised by the distributor to be obscene or to deny or threaten to deny any franchise, license, distributorship or contact or revoke or threaten to revoke or impose any penalties financially or otherwise, by reason of a failure or refusal of such purchaser or consignee, to accept such materials or to do such acts by reason of the return of said materials.

(Code 1998, § 5-7-1; Ord. No. 2006-49, 2006; Ord. No. 004-2008, 3-13-2008)

**5-7-2 (Reserved For Future Use)**

**5-7-3 (Reserved For Future Use)**

**5-7-4 Separate Offenses**

Each separate act or occurrence which is prohibited under this chapter shall constitute a separate offense and shall separately be treated as a misdemeanor under this Code.

(Code 1998, § 5-7-4; Ord. No. 004-2008, 3-13-2008)

**CHAPTER 5-8 UNLAWFUL SEX ACTS**

5-8-1 Unlawful Sex Acts
5-8-2 Soliciting For Immoral Purposes
5-8-3 Pandering

5-8-4 (Reserved For Future Use)
5-8-5 (Reserved For Future Use)
5-8-6 (Reserved For Future Use)
5-8-7 Sex Acts For Hire In Massage Parlors

## 5-8-1 Unlawful Sex Acts

It shall be unlawful for any person, in public or in a public place, to exhibit or expose their genitals, or to engage in, or to solicit another to engage in, any unlawful sexual conduct.

(Code 1998, § 5-8-1; Am 1989-19)

## 5-8-2 Soliciting For Immoral Purposes

It shall be unlawful for any person to offer or agree to a sex act for hire or to endeavor to play the vocation of prostitute, gigolo or pimp or to endeavor by sign, gesture or action to induce or prevail upon any person to enter any house or room occupied by a prostitute, gigolo or pimp or make any bold or meretricious display either upon the public streets or in any public place or at any window or doorway or at any house or room so occupied by such person in view of any public street or place or area generally frequented by the public to induce or prevail upon any other person to enter the premises for the purpose of committing an act of sex for hire.

(Code 1998, § 5-8-2; Am 2006-49)

## 5-8-3 Pandering

It shall be unlawful for any person to run a house of prostitution or to act as a pimp or go-between for persons engaged in sex for hire practices or to solicit any person within the limits of the city for sexual intercourse for hire or to hold out any other person for that purpose or to engage in any other lewd, lascivious or obscene purpose.

(Code 1998, § 5-8-3)

## 5-8-4 (Reserved For Future Use)

## 5-8-5 (Reserved For Future Use)

## 5-8-6 (Reserved For Future Use)

## 5-8-7 Sex Acts For Hire In Massage Parlors

It shall be unlawful for any person to own, operate or work in any premises operated under the guise of a massage parlor, masseur, or other similar business wherein sex acts for hire are permitted or allowed to take place.

(Code 1998, § 5-8-7)

## CHAPTER 5-9 OFF-HIGHWAY VEHICLES

5-9-1 Purpose
5-9-2 (Reserved For Future Use)
5-9-3 Operation Of OHVs On City Streets
5-9-4 OHV Equipment
5-9-5 Licensing And Insurance
5-9-6 Punishment And Fines

**State law reference**—Off-highway vehicles, U.C.A. 1953, § 41-22-1 et seq.

### 5-9-1 Purpose

This chapter is intended to regulate the operation of off-highway vehicles (OHVs) on the city streets.

(Code 1998, § 5-9-1; Ord. No. 012-2008, 9-23-2008; Ord. No. 2016-018, 7-26-2016; Ord. No. 2016-020, 8-23-2016)

### 5-9-2 (Reserved For Future Use)

### 5-9-3 Operation Of OHVs On City Streets

A. Any person operating an OHV or golf cart on the streets of the city is subject to the provisions of all applicable traffic ordinances, except where superseded by this chapter.

B. Any person operating an OHV or golf cart on the city streets must meet one of the following licensure requirements:

1. Operators 16 years of age and older must have in their possession a valid state driver's license/learner's permit or state OHV education certificate for the OHV type they are operating.

2. Operators under 16 years of age must have in their possession a state OHV education certificate for the OHV type they are operating and be under adult supervision (see definitions in this chapter). This section is adopted pursuant to U.C.A. 1953, § 41-22-30. Operators 15 years of age may substitute a valid state driver learner's permit for the adult supervision requirement.

3. Golf carts may be operated with a valid state driver's license or learner's permit.

4. Operators whose OHV is registered as an implement of husbandry are exempt from these licensure requirements, provided said operation is in

accordance with U.C.A. 1953, § 41-22-5.5.

C. This chapter designates all city streets as OHV routes per U.C.A. 1953, § 41-22-10.5(1) with the following exceptions:

1. State Road 165.
2. County Road 238 (200 West, 100 North from 100 West to 200 West, 100 West north of 100 North).
3. 100 North west of 200 West.

Note: Crossing exception streets is permitted, pursuant to U.C.A. 1953, § 41-22-10.3(1).

D. An OHV shall not be operated on the city streets in excess of the posted speed limit.

E. Operating an OHV on cultivated, landscaped, or otherwise developed property is prohibited unless allowed by the property owner.

F. OHV use within the boundaries of the city parks is restricted to the parking lots.

G. Operating an OHV on a sidewalk is prohibited.

H. No person under 18 years of age shall operate or ride as a passenger on an OHV within the city without wearing protective headgear pursuant to U.C.A. 1953, § 41-22-10.8.

I. Operating an OHV between one half-hour after sunset to one half-hour before sunrise without a headlight and taillight functioning is not permitted. Proper signaling must be used when stopping or turning.

J. Snowmobiles may only be operated on the city streets when sufficient snow or ice is present to preclude damage to roadways and shoulders by the snowmobile's steering and propulsion systems.

(Code 1998, § 5-9-3; Ord. No. 012-2008, 9-23-2008; Ord. No. 2016-018, 7-26-2016; Ord. No. 2016-020, 8-23-2016)

**5-9-4 OHV Equipment**

An OHV operated on the city streets must be equipped with:

A. Brakes adequate to control the movement of and to stop and hold the vehicle under normal operating conditions.

B. Headlights and taillights.

C. An unmodified noise suppression device and United States Forest Service approved spark arrestor. Spark arrestors are not applicable for snowmobiles.

This subsection is not applicable to vehicles relying solely on electricity for propulsion.

(Code 1998, § 5-9-4; Ord. No. 012-2008, 9-23-2008; Ord. No. 2016-018, 7-26-2016; Ord. No. 2016-020, 8-23-2016)

### 5-9-5 Licensing And Insurance

At all times a registration card and proof of liability insurance shall be kept with the OHV and shall be available for inspection by a law enforcement officer.

(Code 1998, § 5-9-5; Ord. No. 012-2008, 9-23-2008; Ord. No. 2016-018, 7-26-2016; Ord. No. 2016-020, 8-23-2016)

### 5-9-6 Punishment And Fines

Any person who violates any provision of this chapter, upon conviction, is guilty of a Class C misdemeanor. Punishments related to this chapter may not take precedence over punishments and fines charged for violating other the city, county, state or federal laws or ordinances, but may be assessed in addition to the fines levied for violating this chapter.

(Code 1998, § 5-9-6; Ord. No. 012-2008, 9-23-2008; Ord. No. 2016-018, 7-26-2016; Ord. No. 2016-020, 8-23-2016)

## CHAPTER 5-10 SYNTHETIC CANNABINOIDS

5-10-1 Purpose
5-10-2 Unlawful Acts
5-10-3 Penalty
5-10-4 Subsequent State Action

### 5-10-1 Purpose

The city council agrees with the county council and finds and determines that the substances described hereunder are often used as an alternative to marijuana, that the substances are potentially dangerous to users, that the long-term effects are not yet known, that a high number of hospitalizations have been reported in connection with the use of the substances. The substances described hereunder are not yet categorized as illegal controlled substances under state or federal law, and the city council finds it is proper and necessary to exercise its authority to safeguard and protect the public health and safety.

(Code 1998, § 5-10-1; Ord. No. 011-2010, 9-28-2010)

### 5-10-2 Unlawful Acts

A. Except as authorized by the Utah Controlled Substances Act (U.C.A. 1953, § 58-37-1 et seq.), as amended; it is unlawful for any person to knowingly and intentionally:

1. Produce, manufacture, dispense;
2. Possess with intent to produce, manufacture, or dispense;
3. Distribute or agree, consent, offer, or arrange to distribute;
4. Possess with the intent to distribute; or
5. Possess or use synthetic cannabinoids, more specifically identified as follows:

    a. 1-Pentyl-3-(1-naphthoyl) indole:

    Some trade or other names: JWH-018;

    b. 1-Butyl-3-(1-naphthoyl) indole:

    Some trade or other names: JWH-073;

    c. N-benzylpiperazine:

    Some trade or other names: BZP;

    d. 1-(3-[trifluoromethylphenyl]) piperazine:

    Some trade or other names: TFMPP; or

    e. Any structurally similar analogs of the substances listed above.

(Code 1998, § 5-10-2; Ord. No. 011-2010, 9-28-2010)

**5-10-3 Penalty**

A violation of this chapter is a Class B misdemeanor.

(Code 1998, § 5-10-3; Ord. No. 011-2010, 9-28-2010)

**5-10-4 Subsequent State Action**

If the state legislature adopts a statute enacting criminal penalties for prohibitions set forth in this chapter, then upon the effective date of such state statute, provisions of this chapter that are covered by the state statute shall no longer be deemed effective. Any violations of this chapter prior to a state statute becoming effective may be prosecuted. If there are provisions of this chapter that are not covered by the state statute, those provisions will remain in effect and may be prosecuted.

(Code 1998, § 5-10-4; Ord. No. 011-2010, 9-28-2010)

# TITLE 6 MOTOR VEHICLES AND TRAFFIC

CHAPTER 6-1 UNIFORM TRAFFIC CODE; GENERAL PROVISIONS
CHAPTER 6-2 PARKING REGULATIONS

**State law references**—Motor vehicles, U.C.A. 1953, title 41; Traffic Code, U.C.A. 1953, § 41-6-101; local traffic regulations, U.C.A. 1953, §§ 41-6a-207, 41-6a-208.

## CHAPTER 6-1 UNIFORM TRAFFIC CODE; GENERAL PROVISIONS

6-1-1 Uniform Traffic Code Adopted
6-1-2 (Reserved For Future Use)
6-1-3 Traffic Control

### 6-1-1 Uniform Traffic Code Adopted

The state traffic rules and regulations, and subsequent editions, as compiled, prepared and published as a code in book form by the state department of public safety and/or other authorized agency, and as they may be subsequently amended by legislative act or executive order, three copies of which have been filed for use and examination by the public in the office of the city recorder, hereby are approved and adopted as the traffic code for the city. Three copies of any subsequent editions shall be filed for use and examination by the public in the office of the city and shall thereupon become the traffic code for the city.

(Code 1977, § 11-321; Code 1998, § 6-1-1)

### 6-1-2 (Reserved For Future Use)

### 6-1-3 Traffic Control

A. *Prima facie speed*. Unless otherwise provided in this chapter or in any other ordinance of the city, the prima facie speed limits on the streets of the city shall be 25 miles per hour.

B. *Erection of stop or yield signs*. Whenever any ordinance of the city designates and describes a through street, it shall be the duty of the city's designated law enforcement agency or the public works director to place and maintain a stop sign or, where safety and efficiency require at any intersection, a yield sign on each and every street intersecting such through street unless traffic at such intersection is controlled at all times by traffic-control signals. However, at the intersection of two through streets or at the intersection of a through street and a heavily traveled street, stop signs shall be erected at the approaches to either street as determined by the city's designated chief law enforcement agency and on the basis of an engineering and traffic study.

C. *Penalty*. Any person violating, causing or permitting violation of any provision of this section shall be guilty of a Class B misdemeanor. Notwithstanding other language or provisions in the state traffic rules and regulations, and subsequent editions, hereby adopted, any violator of this section, upon conviction, shall be subject to penalty as provided in PCC 1-4-1, provided that minimum sentences and all other sanctions consistent with the aforementioned guidelines and contained in said Code, and subsequent editions, are incorporated in this subsection by reference.

(Code 1977, §§ 11-323, 11-326, 11-329; Code 1998, § 6-1-3)

## CHAPTER 6-2 PARKING REGULATIONS


6-2-1 Sign Replacement; Authority
6-2-2 Rules And Regulations; Generally
6-2-3 Disabled Person Spaces
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6-2-5 Prohibited Areas
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6-2-9 Impounding; Authority
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**State law reference**—Stopping, standing, and parking, U.C.A. 1953, § 41-6A-1401 et seq.

### 6-2-1 Sign Replacement; Authority

The city council may direct the placement of signs prohibiting, restricting or otherwise directing the stopping, standing or parking of vehicles on any public property, street or highway where it is determined that such stopping, standing or parking would unduly interfere with the free movement of traffic thereof, or to otherwise indicate standing or parking regulations. Such signs as are placed at the direction of the city council or the state road commission shall be official signs, and no person shall stop, stand or park any vehicle in violation of the restrictions stated on such signs.

(Code 1998, § 6-2-1; Ord. No. 94-1, 1-25-1994; Ord. No. 011-2011, 11-8-2011; Ord. No. 007-2012, 5-8-2012; Ord. No. 002-2014, 6-24-2014)

### 6-2-2 Rules And Regulations; Generally

A. *Approach*.

1. Every driver about to enter a parking space being vacated shall stop their vehicle and wait to the rear of the vehicle in the actual process of vacating

the parking space.

2. No driver shall stop a vehicle ahead of a parking space being vacated and attempt to interfere with a driver who had waited properly in the rear of a parking space being vacated.

3. No driver shall stop and wait for a parking space unless the vehicle vacating the space is actually in motion in the process of vacating.

B. *Parallel*.

1. *Two-way streets*. Except as otherwise provided in this section, every vehicle stopped or parked upon a two-way roadway shall be stopped or parked with the right-hand wheels parallel to and within 12 inches of the right-hand curb or sidewalk if curb is not present. (For parking where a precipitate grade is present, see subsection L of this section.)

2. *One-way streets*. On one-way streets, vehicles may also park parallel with the curb and with the left-hand wheels adjacent to and within 18 inches of the left-hand curb.

C. *Angle*. Angle parking is permitted on any street containing painted lines designating parking at an angle to the curb.

D. *Traffic obstruction*. No person shall stop or park any vehicle upon a street in such a manner or under such conditions as to leave available less than 12 feet of width of the roadway for free movement of vehicular traffic, nor upon any laned roadway within the lanes designated for moving traffic, nor on any public street or alley where the width of the roadway or traveled portion is less than 20 feet.

E. *Alleys*. No person shall park a vehicle within an alley, except during the necessary and expeditious loading and unloading of merchandise, and no person shall stop, stand or park a vehicle within an alley in such position as to block the driveway entrance to any abutting property or interfere with free movement of traffic through the alley.

F. *Cutting through corners*. No driver of a motor vehicle, motorcycle or vehicle of any kind shall drive through any private driveway or private property, such as a gas station/convenience store or lot or similar area, whether vacant or not, with intent to avoid obedience to any traffic regulations set forth in this title; and no person shall drive a motor vehicle, motorcycle or any other vehicle through any private driveway, lot or similar area where any business establishment, manufactory, retail store, drugstore, cafe, confectionary, drive-in food and drink establishment, or drive-in market or any other kind of business or trade is maintained or carried on for the purpose and with the intent of avoiding obedience to any traffic regulation or for the purpose and with the intent of harassing and annoying the owner thereof or the owner's patrons.

G. *Stop when intersection obstructed*. No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.

H. *Ditches*. It is unlawful for any person to park a vehicle in any ditch or gutter in such a manner as to hinder the free flow of the full stream of water through such ditch or gutter.

I. *Overnight camping*. Overnight and extended camping is prohibited in any city park or street, and no tents or other temporary structures are to be erected for camping purposes. The city may grant permission for one-night stopovers for tourists or travelers who have and utilize self-contained stopover units such as campers or house trailers. Such units will be placed in designated areas after permission has been obtained from the city office and subject to personnel jurisdiction and supervision. Extended stopovers for more than one night for tourists and travelers is prohibited, unless specific approval is granted for such extension by the mayor, councilmember in charge of parks, or a designee.

J. *Blocking streets or highways*. In addition to the parking provisions contained in the state traffic code, as adopted by the city, it shall be a Class B misdemeanor, subject to penalty as provided in PCC 1-4-1, for any person to:

    1. Remain standing, lying or sitting on any street or highway in such a manner as to obstruct the free passage of vehicular or pedestrian traffic thereon.

    2. Willfully remain standing, lying or sitting on any street or highway in such manner for more than one minute after being requested to move by any police officer.

    3. Willfully remain on such street or highway in such manner as to obstruct the free passage of any person or vehicle into or out of any property abutting upon the street or highway or any property having access to such street or highway.

K. *Loading and unloading*. When not otherwise posted or subject to another ordinance of the city, it shall be unlawful for the driver of a passenger vehicle to stand or park such vehicle for a period of time longer than necessary for the loading or unloading of passengers, not to exceed ten minutes, and for the driver to stand or park any freight-carrying motor vehicle for a period of time longer than is necessary to load, unload and deliver materials, not to exceed 30 minutes in any place designated by resolution of the city council as a loading zone and marked as such.

L. *Unattended vehicles*. No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition

and removing the key, placing the transmission in park or the gears in low or reverse of the vehicle has a manual shift, or effectively setting the brakes thereon; and when standing upon any perceptible grade, turning the front wheels to the curb or side of the highway.

M. *Placing signs*. No person shall, without the permission of the city council, place or cause to be placed on any street or sidewalk or on any building any sign preventing or forbidding the parking of vehicles in the street in front of any building or place of business.

(Code 1998, § 6-2-2; Ord. No. 94-1, 1-25-1994; Ord. No. 011-2011, 11-8-2011; Ord. No. 007-2012, 5-8-2012; Ord. No. 002-2014, 6-24-2014)

## 6-2-3 Disabled Person Spaces

Only those vehicles carrying a distinctive (logo) disabled license plate or transferable identification card may park in a parking space which is clearly identified as reserved for use by disabled persons. This section applies to and may be enforced on public property and on private property which is used or intended for use by the public.

(Code 1998, § 6-2-3; Ord. No. 94-1, 1-25-1994; Ord. No. 011-2011, 11-8-2011; Ord. No. 007-2012, 5-8-2012; Ord. No. 002-2014, 6-24-2014)

## 6-2-4 Schools

A. *Authority to post*. Providence Elementary and Springcreek Middle School may post the school parking lots with appropriate signs prohibiting parking except as directed on the signs, between the hours of 7:30 a.m. and 4:00 p.m., inclusive. It is unlawful to park any vehicle on Providence Elementary and Springcreek Middle School property in violation of the direction given by such signs.

B. *Enforcement*. The city has received a request from the county school district to enforce such parking regulations and the city's designated law enforcement agency shall have full authority to patrol any parking lot on the school grounds to enforce this section or any other ordinance.

(Code 1998, § 6-2-4; Ord. No. 94-1, 1-25-1994; Ord. No. 011-2011, 11-8-2011; Ord. No. 007-2012, 5-8-2012; Ord. No. 002-2014, 6-24-2014)

## 6-2-5 Prohibited Areas

A. *Specified*. No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

1. On a sidewalk;

2. In front of a public or private driveway;
3. Within an intersection;
4. Within 15 feet of a fire hydrant;
5. On a crosswalk;
6. Within 20 feet of a crosswalk at an intersection;
7. Within 30 feet upon the approach to any flashing beacon light, stop sign or traffic-control signal located at the side of a roadway, except it shall be 20 feet upon the approach to a flashing school crossing warning sign;
8. Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless the traffic authority indicates a different length by signs or markings;
9. Within 20 feet of the driveway entrance to any fire station or within 75 feet of said entrance when properly sign-posted;
10. Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
11. On the roadway side of any vehicle stopped or parked at the end or curb of a street;
12. Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
13. At any place where signs or markings placed by order of the city council prohibit stopping, standing or parking, or in a manner contrary to the directions of such signs or markings;
14. In any parking stall marked for angle parking with the rear wheels of the vehicle adjacent to the curb;
15. In any parking stall marked by painted lines, unless the vehicle is entirely within such parking space or painted lines upon the surface of the street or parking area;
16. On that portion of an unlaned roadway which is within 15 feet from the center of such roadway on a street not having adjacent curbs;
17. Parking in a direction opposite to the direction of the traffic flow on a one-way street.

B. *Unlawfully controlled vehicle*. No person shall move a vehicle not lawfully under that person's control into any such prohibited area or away from a curb such distance as is unlawful.

C. *Semi-truck and trailer parking*. A semi-truck and trailer is a large articulated truck

that consists of a towing engine, commonly known as a tractor, attached to one or more semi-trailers to carry freight. A semi-trailer only has wheels on the back half of the trailer (it does not have an axle in the front).

1. No refrigeration units may be left running within the city residential zones between the hours of 10:00 p.m. and 6:00 a.m. Units left running will be cited and fined: first offense, warning; second offense, $100.00; third offense, towing.
2. Semi-trucks and/or trailers parked in the city right-of-way may not be parked closer than 25 feet to any residential, agricultural, or commercial driveway, or 30 feet from any intersection. Semi-trucks and/or trailers so parked will be cited and fined: first offense, warning; second offense, $100.00; third offense, towing.
3. Semi-trucks and/or trailers parked in the city right-of-way must be parked right side to curb; in the absence of curb, left side to asphalt. Semi-trucks and/or trailers parked contrary to this chapter will be cited and fined: first offense, warning; second offense, $100.00; third offense, towing.
4. Semi-trucks and/or trailers may not be parked in any residential right-of-way 66 feet or narrower. Semi-trucks and/or trailers so parked will be cited and fined: first offense, warning; second offense, $100.00; third offense, towing.
5. The regulations in subsection C.4 of this section do not apply to:
    a. A semi-truck and trailer parking as part of a normal delivery or pick up.
    b. A semi-truck and trailer used as a moving van.
    c. Emergency vehicles.
    d. Public works and/or construction vehicles used in the course of repair or construction.

(Code 1998, § 6-2-5; Ord. No. 94-1, 1-25-1994; Ord. No. 011-2011, 11-8-2011; Ord. No. 007-2012, 5-8-2012; Ord. No. 002-2014, 6-24-2014)

**6-2-6 Certain Purposes Prohibited**

No person shall park a vehicle upon any roadway or right-of-way for the principal purpose of:

A. *Displaying for sale*. Displaying such vehicle for sale;

B. *Repairs*. Greasing or repairing such vehicle, except repairs necessitated by an emergency;

C. *Advertising*. Displaying advertising;

D. *Merchandise sales*. The sale of foodstuffs or other merchandise in any business district; or

E. *Hour limitation*. No person who owns or has possession, custody or control of any trailer or vehicle shall park or leave standing any such vehicle on any public road, street, alley or city property for 48 or more consecutive hours and any vehicle so parked or left standing may be impounded and removed by the police. For purposes of impoundment and removal, the police may impound and remove any vehicle which reasonably appears to have remained unmoved for 48 consecutive hours. The cost of impoundment and removal shall be charged to the owner or any person who claims the impounded vehicle.

(Code 1998, § 6-2-6; Ord. No. 94-1, 1-25-1994; Ord. No. 011-2011, 11-8-2011; Ord. No. 007-2012, 5-8-2012; Ord. No. 002-2014, 6-24-2014)

## 6-2-7 Public Parking Areas

A. *Sign placement; authority*. The city council is authorized to cause to be placed upon any public parking area within the city appropriate signs regulating parking thereon, including regulations pertaining to the maximum duration during which parking is allowed, periods of time when parking may be prohibited, specified uses for particular parking facilities, the designation of certain parking spaces for city, county, state or federal employees and other matters pertaining to the efficient regulations and control of public parking areas.

B. *Violation unlawful*. When signs are in place in public parking areas controlling or regulating parking thereon and have been so placed in conformity with the provisions of this chapter, it is unlawful to park any vehicle in a public parking area within the city in violation of the direction given on such signs.

(Code 1998, § 6-2-7(part); Ord. No. 94-1, 1-25-1994; Ord. No. 011-2011, 11-8-2011; Ord. No. 007-2012, 5-8-2012; Ord. No. 002-2014, 6-24-2014)

## 6-2-8 Winter Regulations

A. *Night parking*.

1. It shall be unlawful for the driver or owner of any vehicle to park any vehicle or equipment on any street or right-of-way within eight feet of the pavement in the city beginning 24 hours after the first measurable snowfall or December 1, whichever comes earlier, of each year and ending April 15 of the following year, between the hours of 12:00 midnight and 6:00 a.m. the next day, for a period of time longer than three minutes when loading or unloading passengers. This subsection shall not apply to

doctors on house calls, emergency vehicles, or vehicles used in the repair of utilities.

2. The city will not be liable for any damage occurring to any vehicle or equipment parked on any street or right-of-way, during street and right-of-way maintenance.

B. *Hour limitation*. No person who owns or has possession, custody or control of any trailer or vehicle shall park or leave standing any such vehicle on any public road, street, alley or city property for 48 or more consecutive hours, and any vehicle so parked or left standing may be impounded and remove by the police. For purposes of impoundment and removal, the police may impound and remove any vehicle which reasonably appears to have remained unmoved for 48 consecutive hours. The cost of impoundment and removal shall be charged to the owner or any person who claims the impounded vehicle. These restrictions are only effective during the same time limitations stated in subsection A of this section.

(Code 1998, § 6-2-8; Ord. No. 94-1, 1-25-1994; Ord. No. 98-027, 11-10-1998; Ord. No. 011-2011, 11-8-2011; Ord. No. 007-2012, 5-8-2012; Ord. No. 002-2014, 6-24-2014)

## 6-2-9 Impounding; Authority

Every designated law enforcement officer is authorized summarily to seize and take possession of every abandoned or illegally parked or operated vehicle, which is declared to be an obstruction to traffic and a nuisance, wherever found, by removing or causing such vehicle to be removed and impounded in any authorized vehicle pound. Every designated law enforcement officer is also further authorized to seize and take possession of any vehicle which is being operated upon the public streets of the city with improper registration, or which the officer has good reason to believe has been stolen, or on which any motor number, manufacturer's number or identification mark has been defaced, altered or obliterated, and to remove or cause such vehicle to be removed and impounded in any authorized vehicle pound. An impounded vehicle shall be stored and disposed of in accordance with the provisions of state law.

(Code 1998, § 6-2-9; Ord. No. 94-1, 1-25-1994; Ord. No. 011-2011, 11-8-2011; Ord. No. 007-2012, 5-8-2012; Ord. No. 002-2014, 6-24-2014)

## 6-2-10 Penalty

A. *Civil penalties*. Any person engaged in the unauthorized stopping, standing or parking of a vehicle within the city shall be liable for a civil penalty. Any penalty assessed herein, in appropriate cases, may be in addition to such other penalties as may be provided in the uniform traffic code.

B. *Liability; exception*. Whenever a vehicle shall have been employed in the

unauthorized stopping, standing or parking on the streets within the city, the person in whose name such vehicle is registered shall be strictly liable for such unauthorized stopping, standing or parking and the penalty thereof. Except that the person in whose name such vehicle is registered shall not be liable for a civil penalty for violations of PCC 6-2-2A, 6-2-2F, 6-2-2G, 6-2-2I, 6-2-2M and 6-2-5B. Penalties for violations of PCC 6-2-2A, 6-2-2F, 6-2-2G, 6-2-2I, 6-2-2M and 6-2-5B shall be imposed as provided in subsection C of this section.

C. *Infraction*. Any person who violates any of the provisions of PCC 6-2-2A, 6-2-2F, 6-2-2G, 6-2-2I, 6-2-2M and 6-2-5B shall, for each and every violation and noncompliance, be guilty of an infraction, and upon conviction thereof shall be subject to penalty as provided in PCC 1-4-1 for each offense or violation.

(Code 1998, § 6-2-10; Ord. No. 94-1, 1-25-1994; Ord. No. 011-2011, 11-8-2011; Ord. No. 007-2012, 5-8-2012; Ord. No. 002-2014, 6-24-2014)

**TITLE 7 PUBLIC WAYS AND PROPERTY**
CHAPTER 7-1 STREETS, SIDEWALKS AND PUBLIC WAYS
CHAPTER 7-2 STREET, SIDEWALK, CURB AND GUTTER CONSTRUCTION AND REPAIR
CHAPTER 7-3 EXCAVATIONS
CHAPTER 7-4 CEMETERIES
CHAPTER 7-5 MUNICIPAL PROPERTY CONTROL AND USE
CHAPTER 7-6 CANALS AND WATERCOURSES
CHAPTER 7-7 PARKS AND CITY-OWNED BUILDINGS
CHAPTER 7-8 STORMWATER GENERALLY
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CHAPTER 7-10 STORMWATER CONSTRUCTION ACTIVITY PERMIT
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## CHAPTER 7-1 STREETS, SIDEWALKS AND PUBLIC WAYS

7-1-1 Public Works Department
7-1-2 Removal Of Snow
7-1-3 Obstruction In Streets
7-1-4 Openings In Streets; Doors Obstructing
7-1-5 Discharge Of Water
7-1-6 Sidewalk Regulations
7-1-7 (Reserved For Future Use)
7-1-8 Park Strips

**State law reference**—General powers relative to streets and sidewalks, U.C.A. 1953, § 10-8-8.

### 7-1-1 Public Works Department

A. *Creation*. There is hereby created a public works department, which shall have general supervision of streets, sidewalks, bridges, and other public ways.

B. *Director*. The department shall be under the direction and control of the public works director.

C. *Powers and duties*. The department shall:

1. Have direct responsibility of the construction, maintenance and repair of streets, sidewalks, bridges, curbs, gutters, culverts, drains, waterways and other public ways. It shall have control of all waters flowing on the streets, sidewalks and public ways whether originating from stormwater, floodwater, drainage or irrigation water.

2. Keep a record of and promptly investigate all complaints of defective

streets, culverts, drains, ditches, sidewalks, and other public ways and, when proper, repair, replace or take such action as deemed best, and shall record the action taken on each complaint.

3. Enforce the provisions of this chapter and all other ordinances relating to the maintenance and use of streets, culverts, drains, ditches, waterways, curbs, gutters, sidewalks and other public ways.
4. Assess, repair, or cause to be repaired, defects coming to the department's attention and take reasonable precautions to protect the public from injuries due to such defects pending their repair.

(Code 1977, §§ 11-311, 11-312; Code 1998, § 7-1-1; Ord. No. 004-2009, 8-25-2009; Ord. of 3-3-2012; Ord. No. 003-2013, 7-9-2013; Ord. No. 2019-021, 10-22-2019)

## 7-1-2 Removal Of Snow

A. *Failure to remove unlawful*. It shall be unlawful for the owner, occupant, lesser, or agent of any property, abutting on a paved sidewalk, to fail to remove, or have removed from such paved sidewalk, all hail, snow, or sleet hereon within a reasonable time after such snow, hail, or sleet has fallen.

B. *Depositing in gutter unlawful*. It shall be unlawful for any person removing snow from the sidewalk, to deposit snow, dirt, leaves, or any other material, in the gutter so as to clog or prevent the free flow of water therein.

C. *Depositing in street unlawful*. It shall be unlawful for any person removing snow, ice, or other material from private property to place or deposit said snow, ice, or other material upon any city street or road.

D. *Responsible for damages*. If, during the course of removing snow, the person/entity removing the snow damages private or public property, the person/entity removing the snow is responsible for repair and/or compensation for the damage.

E. *Removal of snow on the asphalt and/or travel portion of the city right-of-way*. Snow removal from the asphalt and/or travel portion of the city right-of-way shall be performed by the city or parties authorized by the city, except the area for mail delivery. If a self-propelled vehicle is used to remove snow from a sidewalk (other than across a driveway), the vehicle shall be no wider than the width of the sidewalk.

(Code 1977, § 11-361; Code 1998, § 7-1-2; Ord. No. 004-2009, 8-25-2009; Ord. of 3-3-2012; Ord. No. 003-2013, 7-9-2013; Ord. No. 2019-021, 10-22-2019)

## 7-1-3 Obstruction In Streets

It shall be unlawful for any person owning, occupying or having control of any property to place, or permit to be placed upon or in the sidewalk, park strip, gutter or street:

A. *Refuse*. Any broken wares, glass, filth, rubbish, sweepings, refuse, matter, water, garbage, ashes, tin cans or other like substances.

B. *Building materials and similar obstructions*. Any wagons, lumber, wood boxes, fencing, building material, dead trees, tree stumps, merchandise or other thing which shall obstruct such public street, gutter, park strip or sidewalk, or any part thereof.

C. *Permanent or temporary structures*. Any permanent or temporary structure, mechanism, device, or other thing of any kind or character, except trees planted pursuant to the provisions of applicable ordinances.

D. *Obstruction of street*. It is an infraction and subject to penalty as provided in PCC 1-4-1 for any person to allow vegetation to grow in a manner that obstructs the street. Owners and occupants of real property abutting any public street, curb, gutter, or sidewalk shall keep trimmed or cut back all vegetation which overhangs or grows onto such street, curb, gutter or sidewalk and which impedes or interferes with pedestrian or vehicular traffic or obstructs the vision of drivers of vehicles. If any owner or occupant fails to do so within three days of receiving written notice from the city of a violation of this section, the city may cut back the vegetation and may charge the owner or occupant for the costs of doing so.

(Code 1977, § 11-362; Code 1998, § 7-1-3; Ord. No. 028-2004, 10-26-2004; Ord. No. 004-2009, 8-25-2009; Ord. of 3-3-2012; Ord. No. 003-2013, 7-9-2013; Ord. No. 2019-021, 10-22-2019)

## 7-1-4 Openings In Streets; Doors Obstructing

A. *Openings*. It shall be unlawful to construct or maintain openings in streets or sidewalks, except with the special permission of the city council, and under the direction and supervision of the public works director.

B. *Doors*. It shall be unlawful for any person owning or having the control or management of any alley, road, or passageway to construct or hang gates or doors to such alley, road, or passageway so that the gates or doors thereto, when open, shall project outwardly more than two feet over or upon the sidewalk beyond the property line.

(Code 1977, §§ 11-363, 11-364; Code 1998, § 7-1-4; Ord. No. 004-2009, 8-25-2009; Ord. of 3-3-2012; Ord. No. 003-2013, 7-9-2013; Ord. No. 2019-021, 10-22-2019)

## 7-1-5 Discharge Of Water

It shall be unlawful for any person owning, occupying, or having control of any premises

to fail, refuse or neglect to prevent water from the roof or eaves of any house, building, or other structure, or from any other source under the control or such person, to be discharged upon the surface of any sidewalk.

(Code 1977, § 11-365; Code 1998, § 7-1-5; Ord. No. 004-2009, 8-25-2009; Ord. of 3-3-2012; Ord. No. 003-2013, 7-9-2013; Ord. No. 2019-021, 10-22-2019)

**7-1-6 Sidewalk Regulations**

A. *Driving or parking*. It shall be unlawful for any person to drive or park a self-propelled vehicle or ride any animal upon any sidewalk, except across a sidewalk at established crossings. The city may operate and/or authorize a vehicle on the sidewalk.

B. *Businesses to keep clean*. It shall be the responsibility of any owners or occupants of any place to keep the sidewalk abutting thereon clean of debris.

C. *Placing goods for sale or show*. No goods, wares, or merchandise shall be placed, maintained or permitted for sale or show in or on any park strip, street, or sidewalk beyond two feet from the front line of the lot, without first obtaining the written approval of the city council. Such approval shall be granted only when such sale or show shall be a promotional activity not exceeding 48 hours and when participated in by a majority of firms seeking approval in their business area.

D. *Contents of written approval*. The city council's written approval shall specifically provide that no goods, wares, or merchandise shall be placed in such a manner as to leave less than a six-foot passageway for pedestrians.

E. *Placing goods for receipt or delivery*. It shall be unlawful for any person to place or suffer to be placed or kept upon any sidewalk any goods, wares or merchandise which said person may be receiving or delivering, without leaving a foot passageway upon such sidewalk. It shall be unlawful for any person receiving or delivering such goods, wares or merchandise to suffer the same to be or remain on such sidewalk for a longer period than three hours.

F. *Congregating*. It is an infraction and subject to penalty as provided in PCC 1-4-1 for any person to congregate about or upon any sidewalk, stairway, doorway, window or in front of any business or dwelling house, theater, lecture room, church or elsewhere and by so doing to obstruct or interfere with the free passage of persons entering, leaving or occupying such building or premises.

G. *Obstruction of sidewalk*. It is an infraction and subject to penalty as provided in PCC 1-4-1 for any person to allow vegetation to grow in a manner that obstructs the sidewalk. Owners and occupants of real property abutting any public street, curb, gutter, or sidewalk shall keep trimmed or cut back all vegetation which overhangs or grows onto such street, curb, gutter or sidewalk and which impedes or interferes with pedestrian or vehicular traffic or obstructs the vision of drivers of

vehicles. If any owner or occupant fails to do so within three days of receiving written notice from the city of a violation of this section, the city may cut back the vegetation and may charge the owner or occupant for the costs of doing so.

(Code 1977, § 11-366, 11-368, 11-369, 11-371; Code 1998, § 7-1-6; Ord. No. 004-2009, 8-25-2009; Ord. of 3-3-2012; Ord. No. 003-2013, 7-9-2013; Ord. No. 2019-021, 10-22-2019)

**7-1-7 (Reserved For Future Use)**

**7-1-8 Park Strips**

A. All Park strips shall be landscaped by the abutting property owner in conformance with the provisions of this section. During the construction of a new principal building, the general contractor is responsible for maintaining the park strip. In general, this maintenance and landscaping will involve improving the ground surface of the park strip with plant material, nonorganic porous material, or hard-surface where permitted. Park strip trees shall also be provided as required herein. Maintenance includes keeping a clean and orderly park strip free of foreign material and trash during and after construction.

    1. Park strips four feet or less in width shall be landscaped and maintained with any one or a combination of the following: grass, ground cover, annuals, perennials, bark or wood chips, paving material, or decorative rock, gravel, or chips. Trees are not allowed.

    2. All park strip landscaping shall be maintained in a safe and well-kept condition by the abutting property owner. Trash, other debris, and noxious weeds shall not be allowed to collect or grow in these areas.

    3. Park strips greater than four feet in width shall be landscaped with any one or a combination of the following: grass, ground cover, annuals, perennials, bark, wood chips, paving material, or decorative rock, gravel, or chips, and may include trees. If trees are used, such trees shall be spaced no less than 25 feet apart and no greater than 30 feet apart. Trees with a minimum caliper size of two inches are recommended. (See the city for a complete list of approved trees and recommended ground cover.)

    4. Where a park strip has been installed, the abutting property owner shall provide landscaping, as provided in this section, and shall continue to maintain the landscaping in a healthy, safe, attractive, and nuisance-free condition. This shall include taking appropriate measures to water and trim plant materials, and to keep the parkway weed-free.

    5. Vegetation which causes a public safety problem may be removed by the city.

6. It shall be unlawful for any person to remove from park strips any trees required by the provisions of this section. This provision shall not apply to routine parkway maintenance.

7. Occupancy permits for new commercial buildings shall not be issued unless the abutting park strips landscaping has been installed or a bond provided to guarantee installation.

8. In all new subdivisions and developments, the developer as a part of the development, is responsible for the street lights, locations to be determined by the city. The developer will be responsible for all associated costs pertaining to the street lights and all coordination with the power company will be handled by the developer.

B. *Paving materials*. Paving materials, limited to placed concrete, concrete pavers, brick pavers, or natural stone pavers, may be used in portions of a park strip subject to the following limitations:

1. *Paving materials near existing street trees or water barrels*. Placed concrete shall not be placed in any park strip with existing street trees. Other paving materials shall be kept a minimum of 18 inches away from existing street trees and water barrels. Grass ground cover, perennials, annuals, organic mulch or gravel shall be used near existing street trees and water barrels.

2. *Park strips, 24-inch wide*. Except as specified above, placed concrete, natural stone pavers, or brick pavers may be used in 100 percent of a park strip that is 24 inches or less in width. If placed concrete is used, it should be finished with a stamped pattern resembling brick or natural stone or scored with another decorative pattern to distinguish it from the adjacent sidewalk.

3. *Park strips, 36-inch wide*. In park strips that are 36 inches or less in width, brick pavers, concrete pavers, or natural stone pavers may be used in 100 percent of the surface area. Placed concrete shall not be used except for carriageways as outlined below. The use of plants in combination with paving materials is encouraged.

4. *Carriageways*. In order to provide for safe and convenient access across park strips to and from vehicles that may park at the curb, up to two carriageways (walkways between the curb and sidewalk) through planted area are encouraged per lot. The material of carriageways may be placed concrete, concrete pavers, brick pavers, or flat, natural stone paving materials such as flagstone or a combination of these materials. The carriageway shall be not more than six feet in width and shall be located so as to provide the most direct route from the curb to the sidewalk.

5. *Prohibited materials*. Materials prohibited in park strips include asphalt,

concrete (except where allowed as outlined above), thorn-bearing plants, groundcover which exceeds 24 inches in height at maturity, shrubs which create visual barriers, anything that impedes pedestrian use, and structural encroachments.

6. *Retaining walls, fences, steps, and other similar structural encroachments*. Retaining walls, fences, steps, and other similar structural encroachments in park strips are prohibited. These structural encroachments are generally prohibited because they limit access from the street to sidewalks and create obstructions to, and increase the cost of, performing maintenance of public improvements and utilities within the park strip.

C. *Rock, gravel, or chips*. Rock, gravel or chips may be used in a park strip subject to the following limitations:

1. Park strips with a grade of eight percent or greater in either direction must have a permit from the city prior to installing rock, gravel, or chips.
2. The area for the rock, gravel or chips should be excavated to an appropriate depth for the size of material.
3. A commercial grade weed barrier should be installed.
4. Rock, gravel, chips should be filled flush or below with the sidewalk and curb.
5. Manhole covers, utility boxes, etc., must remain exposed and accessible.
6. The abutting property owner and/or assigns is responsible for keeping the rock, gravel, and chips out of the street, gutter, catch basins, and sidewalk; and from migrating during a rain or storm event.

D. *Trees*. Trees may be used in park strips greater than four feet in width subject to the following limitations:

1. Trees within overhead utility easement shall be of a species the customarily grows to a height not exceeding 15 feet.
2. Maintenance (pruning, removal, etc.) of trees is the responsibility of the abutting property owner and/or assigns. Except in the case of an emergency, a permit from the city is required before removing a park strip tree. The bottom of the canopy should be maintained to 14 feet over the roadway and eight feet over the sidewalk.

E. *City rights retained*. Notwithstanding anything in this chapter, the city retains the right to maintain, remove, or alter the park strip landscaping as the city deems necessary.

(Code 1998, § 7-1-8; Ord. No. 004-2009, 8-25-2009; Ord. of 3-3-2012; Ord. No. 003-2013, 7-9-2013; Ord. No. 2019-021, 10-22-2019)

## CHAPTER 7-2 STREET, SIDEWALK, CURB AND GUTTER CONSTRUCTION AND REPAIR


7-2-1 Repair And Replacement
7-2-2 Permit Required; Inspection
7-2-3 Conform To Established Specifications
7-2-4 Changing Existing Construction
7-2-5 Building Materials In Street; Permit
7-2-6 Mixing Concrete On Paved Streets Or Sidewalks; Permit
7-2-7 Overflowing Of Water
7-2-8 Irrigation Ditches
7-2-9 Removal Of Earth; Permit


### 7-2-1 Repair And Replacement

A. *Damage*. When any citizen, contractor or person damages the street, sidewalks, curbs or gutters of the city, that individual or person shall repair and/or replace the same within a reasonable time at their own cost pursuant to specifications as herein set forth. Any expenses incurred by the city in providing specifications or inspecting the same shall also be paid. If the city damages any streets, sidewalks, curbs or gutters, the same shall be repaired and/or replaced within a reasonable amount of time at no cost to the property owners.

B. *Age and general wear*. Each year the city shall select certain sidewalks, curbs, or gutters for replacement and/or repair when the same have deteriorated due to age and general wear and tear and how and when such repairs or replacements will occur.

    1. If a property owner requests a sidewalk repair that is not selected by the city, the city may choose to participate in the repair. In such cases, the city may participate up to 50 percent of the cost.

C. *Specifications*. The city, through its engineering or building department, and/or its retention of outside engineering consultants, shall provide specifications for sidewalks, curbs and gutters, inspection for such construction and replacement or repair and approval thereof.

D. *Indigence*. If any citizen of the city is found to be in such financial circumstances that the citizen cannot pay one-half of replacement or repair, then the city, by city council resolution, may waive the collection of said monies. Factors to be considered by the city council in making such determinations shall include, but not be limited to, eligibility for housing assistance, income, assets, ability to earn income, etc.

(Code 1998, § 7-2-1; Ord. No. 11-352D, 10-11-1978; Ord. No. 012-2005, 11-9-2005; Ord. of 3-3-2012; Ord. No. 2019-014, § 7-2-1, 8-14-2019)

## 7-2-2 Permit Required; Inspection

A. *Required*. No person, either as owner, agent, contractor or employee, shall construct any permanent sidewalk for public use without first obtaining from the city recorder a permit to do so. The permit shall specify that the sidewalk be constructed of cement, the character and quality of the cement, the consistent parts of the mixture, and the thickness of the sidewalk.

B. *Unlawful violation of specifications*. It shall be unlawful to construct a sidewalk in violation of the specifications given by a proper city official.

C. *Inspection*. All sidewalks shall be inspected by the public works director or the director's duly authorized representative.

(Code 1977, § 11-352; Code 1998, § 7-2-2; Ord. of 11-9-2005; Ord. of 3-3-2012)

## 7-2-3 Conform To Established Specifications

It shall be unlawful for any person either as owner, agent, contractor or employee to construct a street or sidewalk which does not conform to specifications established by the city engineer or other authorized representative of the city unless special permission to deviate from such specification is first obtained from the city council.

(Code 1977, § 11-351; Code 1998, § 7-2-3; Ord. of 11-9-2005; Ord. of 3-3-2012)

## 7-2-4 Changing Existing Construction

It shall be unlawful for any person to construct a driveway across a sidewalk, or cut or change the construction of sidewalk, curb or gutter without first making written application and obtaining from the city recorder a permit to do so. The acceptance of such permit shall be deemed an agreement on the part of such person to construct said driveway in accordance with specifications furnished by the city.

(Code 1977, § 11-353; Code 1998, § 7-2-4; Ord. of 11-9-2005; Ord. of 3-3-2012)

## 7-2-5 Building Materials In Street; Permit

It shall be unlawful for any person to occupy or use any portion of the public streets when erecting or repairing any building upon land abutting thereon, without first making application to and receiving from the public works director a permit for the occupation or use of such portions of streets for such periods of time and under such limitations and restrictions. Such permit shall expire when the holder thereof fails to comply with any rule or regulation under which it is granted, or when, in the opinion of the public works director, the public interest requires such revocation.

(Code 1977, § 11-354; Code 1998, § 7-2-5; Ord. of 11-9-2005; Ord. of 3-3-2012)

### 7-2-6 Mixing Concrete On Paved Streets Or Sidewalks; Permit

Unless a permit from the public works director is obtained, it shall be unlawful to:

A. *Place, pile or permit*. Place or pile or permit to be placed or piled, any sand, gravel, lime, cement, mortar, plaster, concrete or any like substance or mixture, or allow the same to remain on any portion of any paved street or sidewalk.

B. *Make, mix or permit*. Make, mix or permit to be made or mixed any mortar, plaster, concrete or any like substance or mixture on any portion of any paved street or sidewalk.

(Code 1977, § 11-355; Code 1998, § 7-2-6; Ord. of 11-9-2005; Ord. of 3-3-2012)

### 7-2-7 Overflowing Of Water

It shall be unlawful for any person to allow to overflow from any ditch, canal, well, sprinkling system or irrigation stream onto the streets, sidewalks or property of the city.

(Code 1977, § 11-356; Code 1998, § 7-2-7; Ord. of 11-9-2005; Ord. of 3-3-2012)

### 7-2-8 Irrigation Ditches

All owners or occupants of lots in the city who require water from a ditch for irrigation or other purposes shall dig ditches, erect flumes, lay pipes and install culverts, as needed, and maintain the same to convey water under sidewalks to or from their respective lots. All culverts, ditches, pipes and flumes conveying water under sidewalks shall meet such reasonable standards and specifications as may be established by the public works director.

(Code 1977, § 11-357; Code 1998, § 7-2-8; Ord. of 11-9-2005; Ord. of 3-3-2012)

### 7-2-9 Removal Of Earth; Permit

No person shall dig, cut or remove any sod or earth from any street or other public place without a permit from the public works director.

(Code 1977, § 11-358; Code 1998, § 7-2-9; Ord. of 11-9-2005; Ord. of 3-3-2012)

## CHAPTER 7-3 EXCAVATIONS

7-3-1 Permit Requirements
7-3-2 Bond Required
7-3-3 Subject And Excluded Excavations
7-3-4 Standards
7-3-5 Protection Of Public

7-3-6 Relocation And Protection Of Utilities
7-3-7 Revocation Or Refusal Of Permit
7-3-8 Exception In Emergency

## 7-3-1 Permit Requirements

A. *Required*. It shall be unlawful for any person to break, excavate, tunnel, undermine or in any manner affect the surface or base of any street or to place, deposit or leave upon any street any earth of any other excavated material obstructing or tending to interfere with the free use of the street, unless such person shall first have obtained an excavation permit thereof from the city recorder.

B. *Streets and sidewalks*.

1. No person shall make any excavation in any street, land or alley or remove any pavement or other material from any street or improvement thereon without first obtaining a permit from the city recorder or other authorized representative of the city.
2. No person shall excavate any sidewalk without first obtaining a permit from the city recorder or other authorized personnel.

C. *Franchise; public utility*.

1. Nothing contained in this chapter shall be construed to waive the franchise required for any person by city ordinances or state laws.
2. Any public utility regulated by the state or holding a franchise from the city, which in the pursuance of its calling, has frequent occasion to open or make excavations in streets, may, upon application, receive a general permit from the city to cover all excavations such utilities may make within the streets of the city.

(Code 1998, § 7-3-1; Ord. No. 11-381, 12-14-1993; Ord. No. 11-395, 12-14-1993; Ord. of 3-3-2012)

## 7-3-2 Bond Required

In order to ensure proper backfill and restoration of surface, the permittee shall deposit a surety bond or cash deposit in the amount set by resolution of the city council with the city treasurer, payable to the city, except that a public utility operating or using any of the streets under a franchise from the city will not be required to furnish such bond, providing such franchise obligates the holder thereof to restore the streets and to hold the city harmless in the event of any injury to any person or damage to any property due to negligence of such holder in conducting excavation and restoration operations under such franchise. The required surety bond must be:

A. With good and sufficient surety.

B. By a surety company authorized to transact business in the state.

C. Satisfactory to the city attorney in form and substance.

D. Contained upon the permittee's compliance with this chapter in order to secure and hold the city and its officers harmless against any and all claims, judgments or other costs arising from the excavation and other work covered by the excavation permit for which the city, the city council or any city officer may be made liable by reason of any accident or injury to any person or property through the fault of the permittee arising out of failure to properly guard the excavation or for any other negligence of the permittee.

E. Conditioned to fill up, restore and place in good and safe condition, as near as may be to its original condition, and to the satisfaction of the city, all openings and excavations made in streets, and to maintain any street where excavation is made in as good condition for the period of 12 months after the work shall be done, usual wear and tear expected, as it was before the work shall have been done.

(Code 1998, § 7-3-2; Ord. No. 11-394, 12-14-1993; Ord. of 3-3-2012)

**7-3-3 Subject And Excluded Excavations**

A. *Types subject to provisions*. The types of excavations subject to the provisions of this chapter are:

1. Excavations for installation or repair of water lines, sewer lines, gas lines, electrical cable and conduits, telephone cable and conduits, cable television and conduits, and all other excavations for any other purpose within the street rights-of-way of the city or in other public places.

2. Sidewalks, curbs and gutters, culverts and the installation or relocation of irrigation ditches or culverts to convey water beside or across any city right-of-way.

B. *Types not subject to provisions*. The types of excavations which do not come within the scope of this chapter are excavations of any kind in the city streets in projects designed, contracted for, and inspected by the city engineer or other authorized personnel of the city.

(Code 1998, § 7-3-3; Ord. No. 11-382, 12-14-1993; Ord. of 3-3-2012)

**7-3-4 Standards**

A. *Preparation*. The pavement, sidewalk, driveway, or other surface shall be cut

vertically along the lines forming the trench in such a manner as to not damage the adjoining pavement or hard surfacing. An undercut bevel at the rate of one inch per foot of thickness will be provided at the proposed junction between the old and new surfaces. The portion to be removed shall be broken up in a manner that will not cause damage to the pavement outside the limits of the trench. However, any pavement damaged by operations outside the limits of the trench shall be replaced. All waste material resulting from the excavation shall be removed immediately from the site of the work.

B. *Backfill*.

1. *Materials*. Materials for backfill will be of a select nature. All broken concrete, peat, decomposed vegetable matter and similar materials obtained from excavation will be removed from the site prior to beginning of backfilling. All backfill will be placed in layers not over eight inches loose measure in thickness. Compaction will be obtained by mechanical rollers, mechanical tampers or similar means. Material for backfilling will have optimum moisture to ensure compaction to a degree equivalent to that of the undisturbed ground in which the trench was dug. Jetting or internal vibrating methods of compacting sand fill or similar methods of compacting sand or similar granular free draining materials will be permitted.

2. *Density*. The density (dry) of the backfill under pavements, sidewalks, curbs, or other structures will be not less than that existing prior to excavation. The fill shall be restored and placed in a good condition which will prevent settling.

3. *Materials*. The top 12 inches shall be road base material. The next 36 inches beneath shall be pit run gravel with rocks no larger than four inches.

C. *Restoration of surfaces*.

1. *General*. All street surfacing, curbs, gutters, sidewalks, driveways, or other hard surfaces falling in the line of the excavation which must be removed in performance of the work shall be restored in kind and paid for by the excavator, unless otherwise directed by the city council, in accordance with the specifications contained herein governing the various types of surfaces involved.

2. *Protection of paved surfaces*. In order to avoid unnecessary damage to paved surfaces, track equipment shall use pavement pads when operating on or crossing paved surfaces.

3. *Time*. In traffic lanes of provided streets, the excavator shall provide temporary gravel surfaces or cold mulch in good condition immediately after backfill has been placed, and shall complete permanent repairs on

the street, sidewalk, curb, gutter, driveway and other surfaces, within five days from the date of completion of the backfill, except for periods:

a. When permanent paving material is not available.

b. When weather conditions prevent permanent replacement.

c. When an extension of time is granted by the public works director.

d. Failure to complete permanent repairs within the time period allocated shall cause the late penalty in the fee schedule to be implemented.

4. *Temporary repair*. If temporary repair has been made on paved street with gravel and a permanent repair cannot be made within the time specified above due to any of the above-mentioned conditions, then the excavator shall be required to replace the gravel with cold mulch as soon as possible.

5. *Joints*. All joints created by excavation will be sealed by the city-approved crack sealing methods along entire parameter of joints.

D. *Restoring bituminous; concrete or asphalt surfaces*.

1. *Temporary gravel surface*. Where excavations are made in paved areas, the surface shall be replaced with a temporary gravel surface. The gravel shall be placed deep enough to provide a minimum of six inches below the bottom of the bituminous or concrete surface. Normally, this will require nine inches of gravel for bituminous surfaces, 12 inches of gravel for concrete, and concrete base for asphalt-wearing surfaces. The gravel shall be placed in the trench at the time it is backfilled. The temporary gravel surface shall be maintained by blading, sprinkling, rolling, and adding gravel to maintain a safe, uniform surface satisfactory to the inspector until the final surface is laid. Excess material shall be removed from the premises immediately. Material for use on temporary gravel surfaces shall be obtained from sound, tough, durable gravel or rock meeting the following requirements for gradings:

| | *Percent* |
|---|---|
| Passing on 1-inch sieve | 100 |
| Passing 3/4-inch sieve | 85--100 |
| No. 4 sieve | 45--65 |
| Passing No. 10 sieve | 30--50 |
| Passing No. 200 sieve | 5--10 |

2. *Bituminous surface*. The exposed edges of existing pavement shall be primed with Type MC-1 bituminous material. The type, grade and mixture of the asphalt to be used for street surface replacement shall be approved by the public works director. The thickness shall be equal to the adjacent surface of thickness but not less than three inches. The complete surface shall not deviate more than one-half inch between old and new work. Hot mix shall be used and placed in the trench and compacted to smooth surface with appropriate vibratory roller.

E. *Concrete surfaces*. The sub-base for concrete surfaces shall be sprinkled just before placing the concrete. Joints and surfaces shall be made to match the original surfaces. The thickness of concrete shall be equal to the adjacent concrete but in no case less than six inches thick. The mixing, cement, water content, proportion, placement, and curing of the concrete will be approved by the public works director. In no case shall the concrete have less compressive strength than 3,000 pounds per square inch at the end of 28 days.

F. *Concrete base, bituminous wearing surfaces*. This type of surfacing shall be constructed as above-described.

G. *Gravel surfaces*. Trenches excavated through gravel-surfaced areas, such as gravel roads and shoulders and unpaved driveways, shall have the gravel restored and maintained as described in subsection E of this section, except that the gravel shall be a minimum of one inch more than the thickness of the existing gravel.

H. *Jetting pipe*. Jetting pipe by means of water under pressure, or compressed air, is permitted only when approved by the city.

(Code 1998, § 7-3-4; Ord. No. 11-384, 12-14-1993; Ord. No. 11-385, 12-14-1993; Ord. No. 11-386, 12-14-1993; Ord. No. 11-387, 12-14-1993; Ord. No. 11-388, 12-14-1993; Ord. No. 11-389, 12-14-1993; Ord. No. 11-390, 12-14-1993; Ord. No. 11-393, 12-14-1993; Ord. of 3-3-2012)

## 7-3-5 Protection Of Public

Excavation operations shall be conducted in such manner that a minimum amount of interference or interruption of street traffic will result. Inconvenience to residents and businesses fronting on public streets shall be minimized. Suitable, adequate and sufficient barricades shall be available and used where necessary to prevent accidents involving property or persons. Barricades must be in place until all of the excavator's equipment is removed from site and excavation has been backfilled and proper temporary gravel surface is in place. From sunset to sunrise, all barricades and excavations must be clearly outlined by acceptable warning lights, lanterns, flares, and other devices. Police and fire departments shall be notified at least 24 hours in advance of any planned excavation requiring street closures or detour.

(Code 1998, § 7-3-5; Ord. No. 11-391, 12-14-1993; Ord. of 3-3-2012)

### 7-3-6 Relocation And Protection Of Utilities

An excavator shall not interfere with any existing utility without the written consent of the city council and without advance notice to the owner of the utility. If it becomes necessary to relocate an existing utility, it shall be done by its owner unless the owner otherwise directs. No utility, whether owned by the city or by a private enterprise, shall be moved to accommodate the permittee unless the cost of such work be borne by the permittee or an expressly written agreement is made whereby the utility owner and the excavator make other arrangements relating to such cost. The permittee shall support and protect by timbers or otherwise all pipes, conduits, poles, wires, or other apparatus which may be in any way affected by the excavation work, and shall do everything necessary to support, sustain and protect them under, over, along, or across the work. In case any of the pipes, conduits, poles, wires, or apparatus should be damaged (and for this purpose pipe coating or other encasement or devices are to be considered as part of a substructure), they shall be repaired by the agency or person owning them, but the utility owner shall be reimbursed for the expense of such repairs by the permittee. It is the intent of this chapter that the permittee shall assume all liability for damage to substructures, and any resulting damage or injury to anyone because of such substructure damage and such assumption of liability shall be deemed a contractual obligation which the permittee accepts upon of an excavation permit. The city need not be made a party to any action because of this chapter. The permittee shall inform itself as to the existence and location of all underground utilities and protect the same against damage.

(Code 1998, § 7-3-6; Ord. No. 11-392, 12-14-1993; Ord. of 3-3-2012)

### 7-3-7 Revocation Or Refusal Of Permit

All permits shall be subject to revocation and the city may refuse to issue a permit for failure of the permittee or applicant to abide by the terms and conditions of this chapter.

(Code 1998, § 7-3-7; Ord. No. 11-395, 12-14-1993; Ord. of 3-3-2012)

### 7-3-8 Exception In Emergency

Excavation permits will not be requested prior to excavation in case of emergency endangering life or property, providing the city is notified as soon as practicable and a permit is applied for upon the next regular working day following the emergency.

(Code 1998, § 7-3-8; Ord. No. 11-395, 12-14-1993; Ord. of 3-3-2012)

## CHAPTER 7-4 CEMETERIES

7-4-1 City Cemetery
7-4-2 (Reserved For Future Use)

7-4-3 Applicability
7-4-4 Sexton
7-4-5 Burials
7-4-6 Fees And Charges
7-4-7 Plot Sales
7-4-8 Perpetual Care
7-4-9 (Reserved For Future Use)
7-4-10 Indigents
7-4-11 Rules And Regulations
7-4-12 Care And Maintenance; Right To Enter
7-4-13 Unlawful Acts

**State law reference**—General powers relative to cemeteries, U.C.A. 1953, § 10-8-62.

## 7-4-1 City Cemetery

The burial ground of the city shall be known and designated by the name of Providence City Cemetery.

(Code 1977, § 8-202; Code 1998, § 7-4-1; Ord. No. 009-2010; Ord. of 3-3-2012; Ord. No. 004-2014; Ord. No. 003-2016, 7-29-2016; Ord. No. 2017-006, 4-11-2017; Ord. No. 2020-002, 2-19-2020)

## 7-4-2 (Reserved For Future Use)

## 7-4-3 Applicability

All cemeteries owned and/or maintained by the city or which may hereafter be acquired by the city wherever situated are hereby declared subject to the provisions of this chapter.

(Code 1977, § 8-203; Code 1998, § 7-4-3; Ord. No. 009-2010; Ord. of 3-3-2012; Ord. No. 004-2014; Ord. No. 003-2016, 7-29-2016; Ord. No. 2017-006, 4-11-2017; Ord. No. 2020-002, 2-19-2020)

## 7-4-4 Sexton

A. *Created*. There is hereby created the position of sexton.

B. *Duties*. The sexton shall have responsibility for the general supervision of the city cemetery and to carry out the following duties:

1. Recommending to the city council such additional rules and regulations as may be necessary for the operation, maintenance, use, protection, and appearance of the cemetery.

2. Keeping in proper repair the enclosure around the cemetery and preventing its being entered by animals and, so far as practical, preventing the destruction or defacing of any tablet or marker placed or erected therein.
3. Direct and control all improvements, planting, placement of markers, monuments and all other work done within the cemetery of any kind, nature, or description.
4. Subdividing the cemetery into the plats, sections, lots, and grave sites.
5. Shall sell burial rights in any unsold graves in the city cemetery, issue any payment for graves to the city treasurer, and shall issue a certificate of burial rights which shall describe the grave to which the right to burial is granted. The certificate of burial right shall be in compliance with such rules, regulations and terms adopted by the city council pertaining to the sale, transfer, and usage of burial rights. The certificate shall be signed by the mayor and city recorder.
6. The sexton shall maintain a record of all certificates conveyed, burials, removals, plats, and locations. The sexton shall also prevent any grave from being used beyond its capacity.
7. Direct and control all burials in the city cemetery. Before authorizing the interment of a body in the cemetery, require proof of right of burial certificate and the payment of all fees.
8. Direct the removal of floral pieces or displays left on any grave as deemed necessary to the appearance of the cemetery.
9. Provide for the regulation of all funeral corteges while in the cemetery.
10. Keeping the streets, alleys, walks and avenues in the cemetery in good order and unobstructed.

(Code 1977, §§ 8-211, 8-212; Code 1998, § 7-4-4; Ord. No. 009-2010; Ord. of 3-3-2012; Ord. No. 004-2014; Ord. No. 003-2016, 7-29-2016; Ord. No. 2017-006, 4-11-2017; Ord. No. 2020-002, 2-19-2020)

## 7-4-5 Burials

A. *Certificate required*. It shall be unlawful for any person to bury the body of a deceased person in the city cemetery without first obtaining a certificate of burial right for the grave used or producing satisfactory evidence of a right to burial based on a properly acquired certificate of burial right. A right to burial certificate does not convey to or entitle the holder thereof any other privilege other than the right to bury the body of a deceased person, and is not a deed conveying title in fee simple or otherwise to the land or any part thereof.

B. *Registration*. Before any deceased person may be buried in the city cemetery, the relatives or person having charge of the deceased shall provide the city information about the deceased for the purpose of conducting business; such as, but not limited to, the name of the deceased, when and where born, the date and cause of death, date of burial, name of mortuary and the description of the grave location.

C. *Vaults*.

1. It shall be unlawful for any person to be buried in the cemetery unless the casket, including infant caskets, shall be placed in a vault made of concrete, steel, or brick lined or of such other material approved by the city.
2. No wood shall be used as a permanent part of the construction of any part of the vault.
3. The cremated remains of an individual may be buried without a vault; but must be placed in an urn or other container provided by the mortuary.

D. *Services*. Burials must be scheduled at least two business days in advance of the planned burial date. Burial services may take place Monday through Saturday. Burial services must be concluded by 4:00 p.m. to allow for completion of the burial by the sexton. Violation is considered an infraction and subject to penalty as provided for in PCC 1-4-1.

E. *Parent/child burials*. A parent and child may be buried in the same grave space and same casket. The general guideline is that the child must be under two years of age and buried at the same time.

F. *Burials per day*. No more than two burials per day will be conducted in the cemetery. A parent and child being buried in the same grave and in the same casket are considered one burial.

G. *Cremations*.

1. Interment of the cremated remains of two individuals in one adult grave shall be permitted. Each must be placed in a separate container.
2. The cremated remains of one person may be interred in the same grave space as a buried individual (not cremated). The cremated remains must be buried after or at the same time as the individual not cremated.

H. *Unlawful acts*.

1. It is an infraction, subject to penalty as provided in PCC 1-4-1, for any person to:
    a. Disinter any body buried in any cemetery, except under the direction of the sexton who shall, before disinterment, require a

written permission from both the Bear River District Health officer and the owner of the grave or the owner's heirs, which written authorization shall be filed and preserved in a record kept for such purposes.

b. Disinter or remove the body of a person who has died from a contagious disease within two years after the date of burial, unless the body was buried in a hermetically-sealed casket or vault and is found to be so incased at the time of disinterment.

2. It is an infraction, subject to penalty as provided in PCC 1-4-1, to inter anything other than the remains of human bodies in cemeteries.

3. It is an infraction, subject to penalty as provided in PCC 1-4-1, to bury the body of any person within the city, except in the city cemetery or a private cemetery, unless by special permission of the city council under such rules and regulations that it may prescribe.

(Code 1977, §§ 8-222--8-225; Code 1998, § 7-4-5; Ord. No. 009-2010; Ord. of 3-3-2012; Ord. No. 004-2014; Ord. No. 003-2016, 7-29-2016; Ord. No. 2017-006, 4-11-2017; Ord. No. 2020-002, 2-19-2020)

## 7-4-6 Fees And Charges

A. *Established; authority*. The city council shall from time to time by resolution, fix the size of lots, the price at which burial rights shall be sold and the fees which shall be charged for the various cemetery services to be provided.

B. *Collection*. The city treasurer, and such other persons as the city council may designate, are hereby authorized and required to collect in advance, prices and fees for the opening and closing of graves or other services, which shall include, but not be limited to, properly disinterring bodies and properly restoring the earth and grounds, recording each burial, disinterment or removal, and raised monument privileges. The fees shall be such amounts as are determined by the city council from time to time by resolution.

C. *Opening graves*.

1. No grave shall be opened in the city cemetery until payment of a fee for the labor and expense in so opening the grave shall be paid.

2. The presentation of a receipt from the city treasurer or person designated by the city council when presented to the sexton shall be authority to open a grave for the burial of a deceased person. However, upon a contract being entered into between any mortician and the city wherein the mortician agrees to be responsible and liable for said fees, the city treasurer or their designee may give the sexton authority to open a grave

for the burial of a deceased person without the presentation of a receipt from the city treasurer, their designee or an authorized person.

(Code 1977, §§ 8-224, 8-241, 8-242; Code 1998, § 7-4-6; Ord. No. 009-2010; Ord. of 3-3-2012; Ord. No. 004-2014; Ord. No. 003-2016, 7-29-2016; Ord. No. 2017-006, 4-11-2017; Ord. No. 2020-002, 2-19-2020)

## 7-4-7 Plot Sales

A. *Authority; records*. The city treasurer, and such other person as the city council may designate, are hereby authorized to sell the use of graves in the city cemetery for burial purposes only and to collect all sums arising from the sale. The city treasurer shall keep a complete record of all sales, which record shall describe the location of the grave purchased and the price paid therefor. The city treasurer or designated person shall deliver to each purchaser a certificate of burial rights for each grave purchased, which certificate shall, among other things, describe the location of the grave, the purchase price, and the type of maintenance services which are to be provided, e.g., perpetual care, prepaid continued maintenance, or currently paid services.

B. *Purchase price, scope of*. A certificate and rights to burial shall be exempt from execution, taxation or assessment for care and maintenance from and after full payment of the purchase price. Payments made pursuant of this section shall not be construed to be in payment for cemetery services other than perpetual care or prepaid maintenance.

C. *Services included*. Perpetual care or prepaid continued maintenance shall be deemed to include the filling of the grave, the placing of topsoil upon the grave, seeding the grave with grass, and watering and cutting the grass. No other services are included.

D. *Improvements, changes and services*. No other improvements, changes, or service, except perpetual care, shall be made on any plot.

E. *Resale restrictions*.

1. The graves sold by the city shall not be further sold to any person except the city. The city hereby agrees to buy back any city cemetery grave which it may hereafter sell. The repurchase of such graves shall be for the original price paid by the purchaser if greater than $50.00, or the current selling price of the grave, whichever is less. If the original price paid by the purchaser is less than $50.00, the city will repurchase the grave for $50.00.

2. Whenever a certificate to burial rights or graves reverts to the city, as provided for in this subsection, or becomes vested in the city for any reason, before new certificates are issued, the original certificate shall be

cancelled or an assignment given and the record shall be so changed.

3. The certificates shall be issued and signed by the mayor and shall be attested by the city recorder. All graves or parts of graves, as provided in this subsection, together with all improvements, shall be exempt from execution and from taxation and assessment for care and maintenance charges from and after said payment.
4. Cemetery graves may be given by will to another person. The current certificate will be turned in to the city. The fee for a new certificate will be established by resolution of the city council.
5. Cemetery graves may be transferred, conveyed, or assigned to another person. The current certificate will be turned in to the city. The fee for a new certificate will be established by resolution of the city council.
    a. Selling, transferring, conveying, or assigning cemetery graves for monetary gain of either party is prohibited.

(Code 1977, § 8-252; Code 1998, § 7-4-7; Ord. No. 98-029, 12-8-1998; Ord. No. 009-2010; Ord. of 3-3-2012; Ord. No. 004-2014; Ord. No. 003-2016, 7-29-2016; Ord. No. 2017-006, 4-11-2017; Ord. No. 2020-002, 2-19-2020)

**7-4-8 Perpetual Care**

A. *Scope of care*. The essential perpetual care that the city agrees to give shall consist of care of the cemetery generally, and shall include, but is not limited to, mowing of all graves at reasonable intervals, resodding, seeding, and filling in sunken graves, sodding the surface of the graves to lot level, removing dead flowers and trimming trees and shrubbery when necessary, raking and cleaning the graves and straightening of tilting stones or markers, but shall not include repairing or replacing markers or memorial structures of any nature, except when the need for repair or replacement is directly caused by the city.

B. *Fund created; use*.

1. There hereby is established a perpetual care fund according to the laws of the state and this chapter. All funds received from the sale of perpetual care services shall be placed in a special perpetual care fund, invested in compliance with the laws of the state and used for the purpose herein provided.
2. The income from the perpetual care fund shall be used to pay the upkeep and development of the cemetery. The city may borrow from the fund from time to time, but any funds borrowed shall be repaid to the fund with interest thereon at the prevailing rate paid by the city to borrow funds from commercial lenders.

3. If the city borrows from the fund, it shall pay into a fund for the operation of the cemetery the interest accrued upon the money annually. Should it be found that the interest returned upon the perpetual care funds shall be more that is required to pay for the operation and upkeep of the city cemetery, then the surplus shall be added to the principal amount of the perpetual care fund herein created, and shall be so handled until changed by resolution to provide for the use of such accumulated interest.

C. *Duties of officials*.

1. *Treasurer*. It shall be the duty of the city treasurer to keep an accurate record of the perpetual care trust fund account, including investments, to see that the principal portion thereof is properly invested in accordance with resolutions of the city council and the laws of the state, and to advise the mayor when funds are available for investment in the amount of $1,000.00 or more. The mayor shall advise the city council of the availability of such funds.

2. *City council*. It shall be the duty of the city council, when funds are available for investment, to direct by resolution all purchases of securities for the perpetual care fund or to name a suitable trustee for such investment.

    a. The city council has the option of authorizing the money be kept in an interest-bearing checking or savings account.

(Code 1977, §§ 8-261--8-263, 8-271, 8-272, 8-274; Code 1998, § 7-4-8; Ord. No. 009-2010; Ord. of 3-3-2012; Ord. No. 004-2014; Ord. No. 003-2016, 7-29-2016; Ord. No. 2017-006, 4-11-2017; Ord. No. 2020-002, 2-19-2020)

**7-4-9 (Reserved For Future Use)**

**7-4-10 Indigents**

A. *Portion of cemetery designated*. The city council may by resolution designate various spaces in the city cemetery for the burial of indigents. Whenever it is made to appear to the mayor by proof submitted to the mayor by the city treasurer that any person who has died does not have an estate sufficient to pay the purchase price of a plot in the cemetery, and that the nearest relative or representative of such deceased person desires to have the body of such deceased interred in the cemetery, the mayor may grant burial space for such deceased person at the request made to the mayor by the city treasurer. The fee for opening/closing the grave may also be waived.

B. *Decision; report to the city council*. The mayor shall communicate their decision

to both the city treasurer and the sexton. The mayor shall give report of their decision, whether affirmative or negative, to the city council at its regular meeting. Residents, as defined in PCC 1-3-2, without funds, who may die in the city may be granted the privilege granted herein.

C. *Qualifications*. A person is considered indigent if that person's assets are less than the poverty level in the county.

1. To be considered for an indigent burial, if the deceased is a minor, the family requesting aid, shall provide a form detailing its assets, including savings accounts and life insurance policies. The form shall be submitted to the office of the city treasurer.
2. To be considered for an indigent burial for an adult, the nearest relative or representative of such deceased person shall provide a form detailing the deceased assets including savings accounts and life insurance policies. The form shall be submitted to the office of the city recorder.

(Code 1977, § 8-291; Code 1998, § 7-4-10; Ord. No. 009-2010; Ord. of 3-3-2012; Ord. No. 004-2014; Ord. No. 003-2016, 7-29-2016; Ord. No. 2017-006, 4-11-2017; Ord. No. 2020-002, 2-19-2020)

**7-4-11 Rules And Regulations**

A. *Authority to regulate; procedure*.

1. The city council may promulgate by resolution such additional rules and regulations concerning the care, use, operation and maintenance of the cemetery as it shall deem necessary.
2. The mayor may, from time to time as the city council deems necessary, direct and publish a booklet of rules and regulations for the convenience of the purchasers of graves in the city cemetery. Such rules and regulations shall constitute a part of the terms and conditions under which owners and users may utilize the cemetery and shall form a supplement to this chapter after they have been adopted as official by resolution of the city council.
3. Any changes in the rules and regulations shall be adopted by the city council before such changes shall be official.

B. *Lots sold*. Every lot or single grave sold is subject to rules and regulations that have been or may be adopted. The rules and regulations shall be subject to such changes as are found necessary for the protection of grave owners, the remains of the dead and the preservation of the cemetery.

C. *Traffic control*.

1. The provisions of the city traffic ordinances relative to the operation of vehicles and conduct of pedestrians shall be in effect in the cemetery, except as herein otherwise modified by this chapter.
2. It shall be unlawful for any person to ride or drive within the city cemetery at a speed greater than ten miles per hour.

D. *Animals*. Except as provided in U.C.A. 1953, § 62A-5b-104, no animal shall be allowed in any cemetery, except in the confines of a vehicle and must be at all times retained within the confines of said vehicle while the vehicle remains in the cemetery.

E. *Decorum*. Cemetery grounds are sacredly devoted to the interment and repose of the dead. Strict observance of decorum due to such a place shall be required of all persons.

F. *Errors in opening graves*. Under no circumstances will the city assume responsibilities for errors in opening graves when orders are given by telephone.

G. *Religious and fraternal organizations*. The city may contract with religious and fraternal organizations to designate a reasonable portion of the cemetery in which burials may be restricted to members of such religious and fraternal organizations and their families.

H. *Personal conduct*.

1. *Use of alcoholic beverages and controlled substances*. In the cemetery, it shall be unlawful for any person to:
    a. Possess, use, or sell ay controlled substance (as defined in U.C.A. 1953, § 58-37-2) in violation of state law.
    b. Possess, serve or consume beer, liquor, or any other alcoholic beverage.

2. *No-use of tobacco and smoke free zone*.
    a. A tobacco no-use and smoke free zone is an area where the use of tobacco products, smoke or smokeless, is prohibited. A person of legal age may bring tobacco products into the area, but they may not be used in the area.
    b. A tobacco no-use and smoke free zone is established in the cemetery, including buildings, parking lots, sidewalks, and amenities.

I. *Grave markers*. The grave markers shall be placed at the head of the grave under the supervision of the sexton. Only one marker is allowed per grave.

1. All markers shall be required to have a four-inch minimum mow strip flush to the ground.
2. A marker for a single grave shall be no larger than 48 inches long by 28 inches wide by 36 inches tall.
    a. Only one single grave marker shall be allowed when the cremated remains of one person are interred in the same grave space as another cremated individual or buried individual.
3. A single marker shared by two graves shall be no larger than 96 inches long by 28 inches wide by 36 inches tall.
4. A single marker shared by three graves shall be no larger than 144 inches long by 28 inches wide by 36 inches tall.
5. Markers must be scheduled at least two business days in advance of the installation. Said notification must take place during regular business hours. Markers must be installed by a monument company, Monday through Friday during regular business hours. Violation is considered an infraction and subject to penalty as provided for in PCC 1-4-1.
6. No marker shall be installed if weather and/or ground conditions are unsuitable.

(Code 1977, §§ 8-226, 8-227, 8-229, 8-230, 8-232, 8-233, 8-237; Code 1998, § 7-4-11; Ord. No. 009-2010; Ord. of 3-3-2012; Ord. No. 004-2014; Ord. No. 003-2016, 7-29-2016; Ord. No. 2017-006, 4-11-2017; Ord. No. 2020-002, 2-19-2020)

## 7-4-12 Care And Maintenance; Right To Enter

The city reserves the right to enter upon any grave and to perform all work necessary for the care and upkeep of all lots and graves in its cemetery.

(Code 1977, § 8-228; Code 1998, § 7-4-12; Ord. No. 009-2010; Ord. of 3-3-2012; Ord. No. 004-2014; Ord. No. 003-2016, 7-29-2016; Ord. No. 2017-006, 4-11-2017; Ord. No. 2020-002, 2-19-2020)

## 7-4-13 Unlawful Acts

A. *Injury to property*.

1. It is an infraction, subject to penalty as provided in PCC 1-4-1, for any person to tie or attempt to tie any animal or motor vehicle to any monument, gravestone, tablet, marker, tree, shrub, fence or enclosure on the premises of the cemetery for the purpose of injuring, defacing or attempting the removal of same.

2. It shall be an infraction, subject to penalty as provided in PCC 1-4-1, for any person to injure, deface, break, destroy or remove any headstone, tombstone, monument, tree, shrub or any other property in the cemetery.

B. *Landscaping by private persons*. Except as provided by the rules and regulations of the city council, it shall be unlawful for any person to erect or maintain any fence, corner post, coping or boundary of any kind, to plant any vegetation upon any grave or graves, street, alley or walk in the cemetery or to grade the ground or land thereof. The sexton shall, whenever required, furnish the true lines of any graves according to official survey, shall prevent and prohibit any markings or the same except by official landmarks, and shall prevent and prohibit any grading thereof that might destroy or interfere with the general slope of the land.

C. *Placement of markers*. It shall be unlawful for any person to erect, place or cause to be placed any marker or monument on any grave in cemetery in violation of the rules and regulations promulgated by the city council regarding the placement, construction, and design of all such markers.

(Code 1977, §§ 8-234--8-236; Code 1998, § 7-4-13; Ord. No. 009-2010; Ord. of 3-3-2012; Ord. No. 004-2014; Ord. No. 003-2016, 7-29-2016; Ord. No. 2017-006, 4-11-2017; Ord. No. 2020-002, 2-19-2020)

## CHAPTER 7-5 MUNICIPAL PROPERTY CONTROL AND USE

7-5-1 (Reserved For Future Use)
7-5-2 Unlawful Use
7-5-3 Repair After Unlawful Use
7-5-4 Franchise; Easement
7-5-5 Acts Exempted

### 7-5-1 (Reserved For Future Use)

### 7-5-2 Unlawful Use

Unless authorized by permit or other written authorization issued by the city or unless authority is granted by provisions of this Code or other ordinance of the city now or hereafter enacted, it shall be a Class B misdemeanor and subject to penalty as provided in PCC 1-4-1 for any person to:

A. *Property controlled by city*. Construct, lay, excavate, erect, operate or maintain over, under, across, in or through any property owned or controlled by the city, any utility, canal, ditch, construction or building.

B. *Restricted areas*. Enter upon any property of the city contrary to any posting or marking restricting or prohibiting use of the area.

C. *Damage to property*. Intentionally or recklessly use or perform acts upon property

of the city which materially impairs, alters, or damages the property.

(Code 1977, § 8-111; Code 1998, § 7-5-2; Ord. of 3-3-2012; Ord. No. 2019-014, § 7-5-2, 8-14-2019)

### 7-5-3 Repair After Unlawful Use

The city council, in addition to any other penalty which may be imposed, may order any person who has damaged, altered or changed any property of the city to repair or restore the property to its original condition prior to the damage, alteration or change.

(Code 1977, § 8-112; Code 1998, § 7-5-3; Ord. of 3-3-2012)

### 7-5-4 Franchise; Easement

A. *Provisions*. The city council may grant to any person a franchise or easement on such terms and conditions as it deems reasonable, for the purpose of entering upon, constructing, building, operating and maintaining any business or for other use of the property of the city and the provisions of PCC 7-5-2 and 7-5-3 shall not apply to the extent such provisions are waived, qualified or made inapplicable to the rights or privileges granted in the franchise ordinance or easement.

B. *In writing*. Any franchise or easement granted by the city shall be in writing and any franchise or easement not in writing shall be void.

(Code 1977, § 8-113; Code 1998, § 7-5-4; Ord. of 3-3-2012)

### 7-5-5 Acts Exempted

It shall not be a violation of this chapter where any person uses the public property of the city in the manner or for the purpose for which such property has been made available for public use.

(Code 1977, § 8-114; Code 1998, § 7-5-5; Ord. of 3-3-2012)

## CHAPTER 7-6 CANALS AND WATERCOURSES

7-6-1 Owner's Name Filed
7-6-2 Cleaning And Repair
7-6-3 Overflow Prevention
7-6-4 Prohibited Acts

### 7-6-1 Owner's Name Filed

It shall be the duty of every person operating any watercourses within the city to file with the public works director the name of the owner of any canal.

(Code 1977, § 13-364; Code 1998, § 7-6-1; Ord. of 3-3-2012; Ord. No. 2015-005, 1-27-2015)

## 7-6-2 Cleaning And Repair

A. *Owners; operators*.

1. *Required*. It shall be the duty of all persons owning or operating any watercourse within the city to clean out and maintain the same in proper repair and to construct and maintain proper dams, headgates and boxes for the distribution of the water flowing in such watercourse.

2. *Time limitation*. Any owner or occupant who fails or neglects to properly clean any ditch as heretofore provided on or before May 1 of each year, or to properly clean ditches within five days after notice thereof shall have been given by the public works director, shall be liable to the penalty hereinafter prescribed in this chapter and shall, in addition to such penalty, be liable for all costs and expenses incurred by the public works director in properly cleaning, repairing and caring for said ditch according to the provisions of this chapter.

B. *City ditches*. All owners or occupants of property in the city having ditches running in front of their lots between the street and the sidewalks are hereby required to maintain and keep the ditches clean so that the water therein shall not flow to injure streets or sidewalks, or wastewater during any period of its allotment for irrigation purposes.

(Code 1977, §§ 13-361, 13-366, 13-367; Code 1998, § 7-6-2; Ord. of 3-3-2012; Ord. No. 2015-005, 1-27-2015)

## 7-6-3 Overflow Prevention

Wherever by reason of the maintenance of any dam or obstruction in the natural channel of any stream, any person causes the water flowing in such natural channel to be raised or backed up so that there is danger that the same will overflow the banks of such stream and cause damage to private property within the city where the same will not be occasioned, except for the maintenance of such dam or obstruction, it shall be the duty of such person to raise and strengthen properly the banks of such stream and to take such other measures as shall protect private property from injury by reason of the said obstruction kept and maintained in such natural channel.

(Code 1977, § 13-362; Code 1998, § 7-6-3; Ord. of 3-3-2012; Ord. No. 2015-005, 1-27-2015)

## 7-6-4 Prohibited Acts

It shall be unlawful for any person to:

A. *Damage to property*. Negligently permit or allow a large volume of water to be turned into any canal or watercourse situated or passing through the city without first carefully cleaning the canal and without carefully attending the water so as to prevent the same from becoming clogged and overflowing the banks of such canal to the injury or damage of private property within the corporate limits of the city.

B. *Flowing on streets, sidewalks*. Allow irrigation water to flow from any irrigation ditch which said person is required to keep clean or from any premises under said person's charge or control upon the streets or sidewalks of the city.

C. *Obstructions*. Place or maintain in or about any water ditch an obstruction of any kind, which hinders or prevents the free passage of water through such ditches.

(Code 1977, § 13-365; Code 1998, § 7-6-4; Ord. of 3-3-2012; Ord. No. 2015-005, 1-27-2015)

## CHAPTER 7-7 PARKS AND CITY-OWNED BUILDINGS

7-7-1 Purpose
7-7-2 Park Operations
7-7-3 Personal Conduct
7-7-4 (Reserved For Future Use)
7-7-5 Commercial Use Restrictions
7-7-6 General Use Restrictions
7-7-7 Regulatory Signs
7-7-8 Penalty

**State law reference**—General powers relative to parks, U.C.A. 1953, §§ 10-8-8, 10-8-11.

### 7-7-1 Purpose

The purpose of this chapter is to establish rules and regulations to provide for the safe and peaceful use of city-owned buildings, park lands and trails; for the education and recreation of the public; for the protection of the property, facilities, and natural resources; and for the safety and general welfare of the public.

(Code 1998, § 7-7-1; Ord. No. 008-2010, 8-10-2010; Ord. of 3-3-2012; Ord. No. 004-2013, 7-9-2013)

### 7-7-2 Park Operations

A. *Hours of operation*.

1. Unless otherwise posted or stated on the park reservation agreement, parks are generally open daily from dawn to dusk.
2. The city may close any park or a portion thereof at any time for the protection of park property or for the public health, safety or welfare.

B. *Park reservation*.

1. The following may be reserved by entering into a park reservation agreement: Von Baer Park (does not include trail area), Zollinger Park Large Pavilion, Zollinger Park Small Pavilion.
2. Park use is on a first come first served basis with the following exceptions:
    a. Athletic fields that are prepped for play or scheduled for games.
    b. Tennis courts that are scheduled for classes.
    c. Areas scheduled for city-sponsored events.
    d. Areas reserved with a park reservation agreement.
    e. An activity utilizing the specific athletic field will take priority over a general use (Example baseball practice or an impromptu baseball game will take precedence over Frisbee on either the infield or the outfield).

(Code 1998, § 7-7-2; Ord. No. 008-2010, 8-10-2010; Ord. of 3-3-2012; Ord. No. 004-2013, 7-9-2013)

**7-7-3 Personal Conduct**

A. *Use of alcoholic beverages and controlled substances*. In a city-owned building, park, or trail, it shall be unlawful for any person to:

1. Possess, use, or sell any controlled substance (as defined in U.C.A. 1953, § 58-37-2) in violation of state law.
2. Possess, serve, or consume beer, liquor, or any other alcoholic beverage.

B. *No-use of tobacco and smoke free zone*.

1. A tobacco no-use and smoke free zone is an area where the use of tobacco products, smoke or smokeless, is prohibited. A person of legal age may bring tobacco products into the area, but they may not be used in the area.
2. A tobacco no-use and smoke free zone is established at all parks

including parking lots, sidewalks, and amenities.

3. A tobacco no-use and smoke free zone is established in all city-owned buildings and within 25 feet of the building not in a park, in accordance with the Utah Indoor Clean Air Act (U.C.A. 1953, § 26-38-1 et seq.).

C. *Gambling, disorderly conduct, use of abusive and/or insulting language*. It shall be unlawful for any person to gamble, engage in disorderly conduct, and or use abusive and insulting language.

(Code 1998, § 7-7-3; Ord. No. 008-2010, 8-10-2010; Ord. of 3-3-2012; Ord. No. 004-2013, 7-9-2013)

**7-7-4 (Reserved For Future Use)**

**7-7-5 Commercial Use Restrictions**

It shall be unlawful for any person to:

A. Solicit, sell, or otherwise peddle any goods, wares, merchandise, services, liquids, or edibles without authorization by the city.

B. Operate a still, motion picture, video or other camera for commercial purposes without authorization by the city.

C. Expose, distribute, or place any sign, advertisement, notice, poster or display for commercial purposes without authorization by the city.

(Code 1998, § 7-7-5; Ord. No. 008-2010, 8-10-2010; Ord. of 3-3-2012; Ord. No. 004-2013, 7-9-2013)

**7-7-6 General Use Restrictions**

It shall be unlawful for any person to:

A. Mark, deface, disfigure, injure, tamper with or displace or remove any buildings, bridges, tables, benches, fireplaces, grills, railings, paving or paving material, water lines, equipment, signs, drinking fountains, swimming or wading pools or other park property, improvements or appurtenances whatsoever, real or personal.

B. Fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition.

C. Dump dirt, grass and tree clippings, or dig, remove, plant or deposit any soil, rock, sand, stones, trees, shrubs, or plants or other wood or materials, or may any excavation by tool, equipment or other means or agency without authorization by

the city.

D. Construct or erect any building or structure of whatever kind, whether permanent or temporary, or run or string any public utility into, upon or across park property without authorization by the city.

E. Damage, cut, carve, mark, transplant or remove any plant, or injure the bark, dig in or otherwise disturb grass areas, or in any other way injure the natural beauty or usefulness of any area without authorization by the city.

F. Climb any trees or walk, climb, stand or sit upon buildings, monuments, statues, vases, planters, fountains, railings, fences or upon any other structure not designated or customarily used for such purpose without authorization by the city.

G. Attach any rod, cable, structure, device or other contrivance to any tree, fence, railing, bridge, bench, building or other structure unless otherwise posted without authorization by the city.

H. Litter or fail to refuse to deposit litter in provided garbage receptacles. Where receptacles are not provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere.

I. Break glass objects and then fail to remove broken glass and safely dispose of the broken glass in such fashion so as not to cause injury to persons or property. Glass is not allowed in or around the splash pad area.

J. Cause or permit any domestic animal (restrained or loose) to enter a park without authorization by the city. If any domestic animal is allowed in a park, every owner or person having custody of said animal shall remove and properly dispose of the animal's solid waste (fecal material). Exception, service animals are not prohibited.

K. Start a fire except in facilities installed and provided for such purpose or to fail to completely extinguish a fire upon leaving the park without authorization by the city.

L. Camp overnight without authorization by the city.

M. Bring or discharge any air gun, bow and arrow, slingshot, atlatl, spear, boomerang or any other form of potentially dangerous weapon into the park without authorization by the city.

    1. This subsection M does not apply to law enforcement or persons with a legal right to carry a concealed weapon.

    2. This subsection M does not apply to firearms.

N. Kill, trap, hunt, pursue, or in any manner disturb or cause to be disturbed, any species of wildlife, except in nuisance situations without authorization by the city.

O. Possess or bring fireworks into the park or cause the fireworks to be ignited or exploded in the park without authorization by the city.

P. Skateboard, roller-skate, in-line skate, ride a bike or similar recreation device with wheels on any tennis court or on the splash pad.

Q. Operate a skateboard, roller-skate, in-line skate, ride a bike or similar recreational device with wheels on or against any city-owned table, bench, structure, tennis court, bike rack, parking stop, retaining wall, fountain, statue, railing, stage, or other improvement which may suffer damage by such use.

R. Practice golf with real golf balls without authorization by the city.

S. Drive or park any motorized vehicle or trailer on park lands or trails without authorization by the city.

(Code 1998, § 7-7-6; Ord. No. 008-2010, 8-10-2010; Ord. of 3-3-2012; Ord. No. 004-2013, 7-9-2013)

### 7-7-7 Regulatory Signs

A. Where signs have been posted under the direction of the city on any city-owned or -leased property regulating walking, use of vehicles, parking, instructions as to animals or containing other regulatory information, it is unlawful for any person to violate the provisions of such regulatory signs.

B. It is unlawful for any person to intentionally deface, destroy, cover, damage, or remove any placard, notice, sign, or parts thereof whether permanent or temporary, posted or exhibited by the city.

(Code 1998, § 7-7-7; Ord. No. 008-2010, 8-10-2010; Ord. of 3-3-2012; Ord. No. 004-2013, 7-9-2013)

### 7-7-8 Penalty

Any person violating any of the provisions of this chapter shall be deemed guilty of a Class B misdemeanor subject to penalty as provided in PCC 1-4-1. Each occurrence when such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as a separate offense.

(Code 1998, § 7-7-8; Ord. No. 008-2010, 8-10-2010; Ord. of 3-3-2012; Ord. No. 004-2013, 7-9-2013)

## CHAPTER 7-8 STORMWATER GENERALLY

7-8-1 Purpose
7-8-2 (Reserved For Future Use)
7-8-3 Stormwater System Design
7-8-4 Stormwater System Construction

7-8-5 Stormwater System Operation And Maintenance
7-8-6 Illicit Discharges
7-8-7 Enforcement
7-8-8 Penalties
7-8-9 Citations And Appeals
7-8-10 Inspections

## 7-8-1 Purpose

It is the purpose of this chapter to:

A. Protect, maintain, and enhance the environment of the city.

B. Establish responsibilities for controlling and managing stormwater runoff.

C. Protect the public health, safety and the general welfare of the citizens of the city, by controlling discharges of pollutants to the city's stormwater system and to maintain and improve the quality of the receiving waters into which the stormwater outfalls flow, including, without limitation, lakes, rivers, streams, ponds, wetlands, and groundwater of the city and state.

D. Enable the city to comply with the National/Utah Pollution Discharge Elimination System permit (NPDES/UPDES) and applicable regulations, 40 CFR 122.26 for stormwater discharges.

E. Allow the city to exercise the powers granted by the state code, which provides that, among other powers municipalities have with respect to stormwater facilities, is the power by ordinance or resolution to:

1. Exercise general regulation over the planning, location, construction, and operation and maintenance of stormwater facilities in the municipality, whether or not owned and operated by the municipality;

2. Adopt any rules and regulations deemed necessary to accomplish the purposes of this statute, including the adoption of a system of fees for services and permits;

3. Establish standards to regulate the quantity of stormwater discharged and to regulate stormwater contaminants as may be necessary to protect water quality;

4. Review and approve plans and plats for stormwater management in proposed subdivisions or commercial developments, and other projects whether public or private;

5. Suspend or revoke permits when it is determined that the permittee has violated any applicable ordinance, resolution, or condition of the permit;

6. Regulate and prohibit discharges into stormwater facilities of sanitary, industrial, or commercial sewage or waters that have otherwise been

contaminated; and

7. Expend funds to remediate or mitigate the detrimental effects of negatively affected land or other sources of stormwater contamination, whether public or private.

F. City shall administer the provisions of this chapter. Nothing in this chapter shall relieve any person from responsibility for damage to other persons or property, nor impose upon the city, its officers, agents or employees, any liability for damage to other persons or property.

(Code 1998, § 7-8-1; Ord. of 3-3-2012; Ord. No. 004-2012, 3-13-2012)

**7-8-2 (Reserved For Future Use)**

**7-8-3 Stormwater System Design**

A. Stormwater system design and construction documents shall conform to the standards adopted by the city.

B. Stormwater outfall design and water quality shall meet federal, state and local discharge requirements.

(Code 1998, § 7-8-3; Ord. of 3-3-2012; Ord. No. 004-2012, 3-13-2012)

**7-8-4 Stormwater System Construction**

A. Erosion and sediment control practices on construction sites must meet the technical requirements as required in the stormwater construction permit.

B. Erosion and sediment control practices must be applied to all construction activities required by the stormwater construction permit including new development and redevelopment.

C. All construction activities listed under stormwater construction permit shall prepare a SWPPP in accordance with said permit.

1. The SWPPP shall be submitted and reviewed by the city prior to application for said permit.

D. Erosion and sediment BMPs used for construction activities, listed on the SWPPP and sediment and erosion control plans shall protect water quality, reduce the discharge of pollutants, and control waste such as, but not limited to, soils, sediment, oils, discarded building materials, concrete truck washout, chemicals, litter and sanitary waste that may cause adverse impact to water quality.

(Code 1998, § 7-8-4; Ord. of 3-3-2012; Ord. No. 004-2012, 3-13-2012)

**7-8-5 Stormwater System Operation And Maintenance**

A. *Operation and maintenance requirements*. Operation and maintenance of stormwater facilities within the city shall be in conformance with the requirements of the MS4 permit.

B. *Access easements*. All stormwater infrastructure located on private land or that is to be accessed through private land, must have access easements for the purpose of inspection and repair. These easements must be binding on the current property owner and all subsequent owners, heirs and successors of the property and must be properly recorded in the land record.

C. *Privately-owned stormwater infrastructure*.

1. Where the city chooses to not annually inspect, operate or maintain stormwater infrastructure, responsibility for the maintenance and repair of stormwater facilities shall be assigned to the owner of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.

2. Where stormwater infrastructure is not maintained or repaired within the prescribed schedule, the city shall perform the maintenance and repair at its expense and bill the same to the property owner. In the event that payment is not made, the city may use any legal means available to collect the debt.

D. *Maintenance easements*. The applicant must ensure access to the site for the purpose of inspection and repair by securing all the maintenance easements needed. These easements must be binding on the current property owner and all subsequent owners, heirs and successors of the property and must be properly recorded in the land record.

E. *Maintenance agreement*. The owner of property to be served by an on-site stormwater management facility must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owner and all subsequent property owners, heirs and successors. The maintenance agreement shall:

1. Assign responsibility for the maintenance and repair of the stormwater facility to the owner of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.

2. Provide for annual inspection by the property owner for the purpose of documenting maintenance and repair needs and ensure compliance with the purpose and requirements of this chapter. The property owner will arrange for this inspection to be conducted by a registered stormwater

inspector or registered professional engineer licensed to practice in the state who will submit a sealed report of the inspection to the city.

3. Provide that maintenance needs must be addressed in a timely manner, on a schedule to be approved by the city.
4. Provide that if the property is not maintained or repaired within the prescribed schedule, the city shall perform the maintenance and repair at its expense and bill the same to the property owner. The maintenance agreement shall also provide that the city's cost of performing the maintenance shall be a lien against the property.

F. *Dedication*. The municipality shall have the discretion to accept the dedication of any existing or future stormwater management facility, provided such facility meets the requirements of this chapter, and includes adequate and perpetual access and sufficient areas, by easement or otherwise, for inspection and regular maintenance. Any stormwater facility accepted by the municipality must also meet the municipality's construction standards and any other standards and specifications that apply to the particular stormwater facility in question.

(Code 1998, § 7-8-5; Ord. of 3-3-2012; Ord. No. 004-2012, 3-13-2012)

**7-8-6 Illicit Discharges**

A. *Scope*. This section shall apply to all water generated on developed or undeveloped land entering the municipality's separate storm sewer system. Prior situations or conditions are not exempt from the requirements of this chapter.

B. *Prohibition of illicit discharges*. No person shall introduce or cause to be introduced into the municipal separate storm sewer system any discharge that is not composed entirely of stormwater. The commencement, conduct or continuance of any nonstormwater discharge to the municipal separate storm sewer system is prohibited except as described in the MS4 permit.

C. *Prohibition of illicit connections*. The construction, use, maintenance or continued existence of illicit connections to the separate municipal storm sewer system is prohibited.

D. *Reduction of stormwater pollutants by the use of best management practices (BMPs)*. 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 the person's expense, the BMPs necessary to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity shall be deemed compliance with the provisions of this section.

E. *Stockpiling of materials in city rights-of-way*. Stockpiling of materials in city rights-of-way shall be reviewed and approved by the city prior to placement. Approved BMPs associated with stockpiling of material must be implemented and shown on the SWPPP.

F. *Notification of spills*. In the event of a release of hazardous materials the responsible party shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, responsible party shall notify the city no later than the next business day. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall 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 five years.

G. *Clean up of spills*. Within the requirements of the law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting in, or may result in, illicit discharges or pollutants discharging into stormwater and/or the municipal separate storm sewer system, the person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release.

(Code 1998, § 7-8-6; Ord. of 3-3-2012; Ord. No. 004-2012, 3-13-2012)

## 7-8-7 Enforcement

A. *Enforcement authority*. The city shall have the authority to issue notices of violation, stop work orders, and citations, and to impose the criminal and civil penalties provided in this chapter.

B. *Notification of violation*.

1. *Written notice*. Whenever the city finds that any person discharging stormwater has violated or is violating this chapter or a permit or order issued hereunder, the city will serve upon such person written notice of the violation. Within one business day of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the person to the city. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

    a. *Consent orders*. The city is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include

specific action to be taken by the person to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as administrative orders issued pursuant to subsections B.1.c.(ii) and (iii) of this section.

b. *Compliance order*. When the city finds that any person has violated or continues to violate this chapter or a permit or order issued thereunder, the city may issue an order to the violator directing that, following a specific time period, adequate structures, devices, etc., be installed or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.

c. *Cease and desist orders*. When the city finds that any person has violated or continues to violate this chapter or any permit or order issued hereunder, the city may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

    (1) Comply forthwith; or

    (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(Code 1998, § 7-8-7; Ord. of 3-3-2012; Ord. No. 004-2012, 3-13-2012)

**7-8-8 Penalties**

A. *Infractions*. In minor violations a penalty for infractions may be implemented. Such penalty shall be consistent with the severity of the violation and shall not exceed $750.00. Penalties for specific infractions are established by resolution through the city council.

B. *Criminal penalties first offense*. Any person violating the provisions of this chapter for the first time may be assessed a Class C misdemeanor with a maximum fine of $2,500.00 per day for each violation.

C. *Criminal penalties second offense*. Any person violating the provisions of this chapter for the second time may be assessed a Class B misdemeanor with a maximum fine of $5,000.00 per day for each violation.

D. *Measuring penalties*. In assessing a penalty, the city may consider:

1. The harm done to the public health or the environment;
2. Whether the penalty imposed will be a substantial economic deterrent to the illegal activity;
3. The economic benefit gained by the violator;
4. The amount of effort put forth by the violator to remedy this violation;
5. Any unusual or extraordinary enforcement costs incurred by the municipality;
6. The amount of penalty established by ordinance or resolution for specific categories of violations; and
7. Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

E. *Recovery of damages and costs*. In addition to the penalty in subsection B of this section, the municipality may recover:

1. All damages proximately caused by the violator to the municipality, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this chapter, or any other actual damages caused by the violation.
2. The costs of the municipality's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this chapter.
3. Recovery of costs imposed on the city, including attorney's fees, by state or federal entities.

F. *Other remedies*. The municipality may bring legal action to enjoin the continuing violation of this chapter, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.

G. *Remedies cumulative*. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one or more of the remedies set forth herein has been sought or granted.

(Code 1998, § 7-8-8; Ord. of 3-3-2012; Ord. No. 004-2012, 3-13-2012)

## 7-8-9 Citations And Appeals

A. Citations will be processed through the city justice court.

B. Appeals of a justice court decision will follow the court appeal process.

(Code 1998, § 7-8-9; Ord. of 3-3-2012; Ord. No. 004-2012, 3-13-2012)

**7-8-10 Inspections**

A. *Purpose*. To be in accordance with the MS4 permit, the city and the responsible party will conduct inspections to monitor all discharges to natural water bodies, including lakes, rivers, stream and canals, stormwater controls and BMPs.

B. *Scope*. Inspections relating to the MS4 permit include, but are not limited to, illicit discharges, construction activities and post construction operation and maintenance of stormwater controls, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs, either publicly or privately owned.

C. *Access*.

1. *Visual inspections*. Visual inspections by the city of discharges to natural water bodies, spills and stormwater-related controls on private property within the city limits are permitted by the city at any time.

2. *Other inspections*. When a visual inspection is not adequate to determine the extent of discharges to natural water bodies, spills or determine the status of stormwater related controls on private property, real or suspect, the city will give 24 hours' notice of the inspection to take place and the extent of the inspection. Equipment and manpower necessary to perform the inspection will be allowed to access and work as necessary to determine the state of the situation.

3. *Emergency inspections*. During times of emergency, including discharges to natural water bodies, spills or potential damage to life or property, real or suspect, the city may access the location of concern on private property as necessary and with the equipment required to determine the status of the situation. Reasonable attempts to contact the property owner prior to the inspection will be made prior to accessing private property.

D. *Fees for inspections*. Fees for inspections shall be as adopted by resolution through the city council.

E. *Failure to conduct and document inspections, file a notice of intent (NOI), or file a notice of termination (NOT)*. The city considers the following a violation of this chapter:

1. Failure to conduct and document required inspections;

2. Failure to file a NOI;

3. Failure to file a NOT.

(Code 1998, § 7-8-10; Ord. of 3-3-2012; Ord. No. 004-2012, 3-13-2012)

## CHAPTER 7-9 STORMWATER MANAGEMENT

**Editor's note**--Repealed 3-13-2012 by Ordinance No. 004-2012. See PCC chapter 7-8.

## CHAPTER 7-10 STORMWATER CONSTRUCTION ACTIVITY PERMIT

**Editor's note**--Repealed 3-13-2012 by Ordinance No. 004-2012. See PCC chapter 7-8.

## CHAPTER 7-11 DISPOSAL OF PUBLIC PROPERTY

7-11-1 (Reserved For Future Use)
7-11-2 Definitions

### 7-11-1 (Reserved For Future Use)

### 7-11-2 Definitions

For purposes of U.C.A. 1953, § 10-8-2, the following definitions apply:

*Reasonable notice for the disposal of a significant parcel of real property* means to publish a notice, at least 14 days prior to the public hearing, on the city's website and in a newspaper of general circulation.

*Significant parcel of real property* means a parcel of real property owned by the city, that is one-quarter acre or larger, and has an appraised value of $25,000.00 or greater.

**TITLE 8 WATER AND SEWER**
CHAPTER 8-1 WATER USE AND SERVICE
CHAPTER 8-1A DRINKING WATER SOURCE PROTECTION
CHAPTER 8-2 SEWER SERVICE REGULATIONS
CHAPTER 8-3 BACKFLOW AND CROSS CONNECTIONS
CHAPTER 8-4 STORMWATER SYSTEM USE AND SERVICE
CHAPTER 8-5 SECONDARY WATER SYSTEM REGULATIONS

## CHAPTER 8-1 WATER USE AND SERVICE

8-1-1 Water Department Created
8-1-2 Applications For Connection, Service
8-1-3 Fees
8-1-4 Statement Of Charges; Delinquency
8-1-5 Discontinuance Of Service
8-1-6 Use Without Payment Prohibited
8-1-7 Use Without Authority; Restrictions
8-1-8 Installation Of Water Lines
8-1-9 Pipe Requirements
8-1-10 Water Mains Extended
8-1-11 Sprinkling Vehicles
8-1-12 Access By Department
8-1-13 Motors And Certain Machinery Restricted
8-1-14 Fire Hydrants
8-1-15 Scarcity Of Water
8-1-16 Excessive Use Of Sprinklers
8-1-17 Waste Of Water
8-1-18 Water Meters
8-1-19 Service Outside City
8-1-20 Nonliability For Damages
8-1-21 Water Availability Requirement

**State law reference**—Waterworks generally, U.C.A. 1953, §§ 10-7-4 et seq., 10-8-15.

### 8-1-1 Water Department Created

The water department of the city is hereby created. It shall administer the operation and maintenance of the water system of the city.

(Code 1977, § 14-110; Code 1998, § 8-1-1)

### 8-1-2 Applications For Connection, Service

A. *Connection*. Any person, other than a subdivider or developer seeking multiple connections, who desires or is required to secure a new connection to the city water system, shall file with the water department for each such connection a written and signed connection application, which is on file in the office of the water department.

B. *Connection by subdividers*. Whenever a subdivider or developer desires or is required to install water connections and extensions for a subdivision or development, the subdivider or developer shall enter into a written extension agreement which shall constitute an application for permission to make the extensions and connections and an agreement specifying the terms and conditions under which the water extensions and connections shall be made and the payments that shall be required.

C. *Service*. Any person who desires or is required to secure water service for a new residence when such service is available from the city water system, shall file with the water department a written application and agreement for the service, which is on file in the office of the water department. Any person who purchases a new or existing residence shall apply for service at the city office. A utility deposit agreement shall be completed, and the resident shall pay the required deposit shown on the fee schedule. This deposit is refundable after two years if the resident has established good credit with the city.

D. *Penalty*. If any person fails to complete the utility deposit form and/or pay the required deposit within 60 days of the date the person takes occupancy of the home, the city may give the person notice in writing of intent to disconnect service unless the matter is resolved within five days from the date of notice. If the public works director determines it is too cold to disconnect the service, a notice of intent to begin small claims action will be sent in place of the notice to disconnect. If water service is disconnected, the steps for reconnection found in PCC 8-1-5B will be followed.

E. *Service to rental homes*. The owner of a home used as a rental is ultimately responsible for the utility bill at that home. The owner can choose to keep the owner's name on the utility billing, or the owner may choose to have the renter pay the utility deposit and put the utility bill in the renter's name. If the owner chooses the latter option, the bill will be sent to the renter directly. If the renter becomes delinquent, a notice of intent to disconnect service will be sent to both the renter and the landlord. If, for any reason, the renter does not pay the bill or moves from the premises without paying the bill in full, the landlord will be responsible for payment.

F. *Service to apartments, townhomes, or PUD units*. Utility service is provided to apartments, townhomes, or PUD units based on the size of the water line servicing the buildings. Excess water will be charged during the summer months at the same rate as a single-family dwelling. The charges are billed to the homeowners' association directly.

(Code 1977, §§ 14-113, 14-114; Code 1998, § 8-1-2; Ord. No. 007-2002, 5-14-2002)

## 8-1-3 Fees

A. *Service rates and connection fees*. The rates, penalty fee for delinquency in payment, connection fee, reservoir fee, inspection fee and other charges incidental to connection and services from the city water system shall be fixed from time to time by resolution enacted by the city council. The city council may, from time to time, promulgate rules for levying, billing, guaranteeing and collecting charges for water services and all other rules necessary for the management and control of the water system. Rates for services furnished shall be uniform with respect to each class or classes of service established or that may hereafter be established.

B. *Special rates*. The city council may from time to time fix by agreement or resolution special rates and conditions for users using exceptionally large amounts of water service or making use of the water system under exceptional circumstances, upon such terms and conditions as they may deem proper.

C. *Complaints; corrections*. The city council is hereby constituted as a board of equalization of water rates to hear complaints and make corrections of any assessments deemed to be illegal, unequal or unjust. They may, if they see fit, rebate all or any part of the water bill of any indigent person.

(Code 1977, §§ 14-117--14-119; Code 1998, § 8-1-3)

**State law reference**—Water rates, U.C.A. 1953, § 10-8-22.

## 8-1-4 Statement Of Charges; Delinquency

A. *Statement*. The city shall furnish to each user, or mail to, or leave at the user's place of residence or usual place of business, a written or printed statement stating thereon the amount of water service charges assessed against the user once each month or at such other regular interval as the city council shall direct. The statement shall specify the amount of the bill for the water service and the place of payment and date due.

B. *Failure to pay*. If any person fails to pay the water charges within 60 days of the due date, the city may mail the customer notice in writing of intent to disconnect the service to the customer unless the customer pays the bill in full within seven days from the date of the notice. If the public works director determines it is too cold to disconnect the service, a notice of intent to begin small claims action will be sent in place of the notice to disconnect.

C. *Payment of delinquent charges*. If the water service is thereafter discontinued for failure to make payment, then before the water service to the premises shall again be provided, all delinquent water charges must have been paid to the city

treasurer or arrangements made for their payment in a manner satisfactory to the city. In the event water is turned off for nonpayment of water charges, then before the water service to the premises shall again be provided, the customer shall pay, in addition to all delinquent water charges, such extra charge for turning the water on and off as the city council may have established by resolution. Until such resolution has been adopted, there shall be added an extra charge of $25.00 for turning on the water. Furthermore, in addition to such payments and penalties, a delinquent customer may be required to make and file a new application and deposit if the previous deposit has theretofore been applied to the payment of delinquent bills. The city recorder is hereby authorized and empowered to enforce the payment of all delinquent water charges by an action at law in the name of the city.

D. *Abandoned property*. If the city determines the property has been abandoned and the account is delinquent, the city may begin small claims action.

E. *Billing disputes*. If any person has a dispute over the correctness of a bill, that person should call or visit the utility billing clerk. If the dispute is over the number of gallons of water used during a summer month, the city will do the following:

    1. If the reading seems extreme based on previous year's billings, a public works employee will check the meter reading for accuracy.

    2. If the reading is correct, the employee will check for leaks. If there is a leak between the meter and the main line, it is the responsibility of the city to repair it. This leak does not show up on the customers meter or add to the customer's bill. A leak in any other place is the responsibility of the homeowner, including the connection on the bottom of the setter on the homeowner's side.

    3. If the meter doesn't appear to be leaking, the employee will test the meter to see that it is calibrating correctly.

    4. If the reading is correct, there are no apparent leaks, and the meter is calibrating correctly, the reading will stand. If there has been an error in reading, an adjustment will be made to the resident's next utility bill. If there is a leak on the homeowner's side of the meter and the homeowner has it repaired within 30 days of the day the leak is detected, the clerk will adjust the billing based on the following method:

        a. The clerk will check the previous two years' billing of the same month that the leak is detected.

        b. Based on these figures, the clerk will assess what an average bill is for that month. If a person has not lived in the city for two years, the clerk will use the readings of the previous owner at that address, or if it is a newly constructed home, the minimum charge will apply.

c. Any excess above the amount figured by the clerk to be the average bill will be paid half by the resident and half by the city.

d. Unless there are special circumstances, a person's bill will only be adjusted for the month when the leak occurred.

5. The test for meter calibration will be done once a year at no charge. If an additional request is made to have the meter checked, the person making the request will be billed for time and materials.

(Code 1977, § 14-121; Code 1998, § 8-1-4; Ord. No. 007-2002, 5-14-2002; Ord. No. 001-2006, 1-10-2006)

**8-1-5 Discontinuance Of Service**

A. *Disconnection of service*. Any customer desiring to disconnect service shall notify the city in writing of such fact at least ten days before the date when such service shall be disconnected. After giving such written notice, the customer shall not be responsible for water bills incurred after the date specified in the notice. A fee in the amount established by resolution will be charged for the disconnection of services.

B. *Reconnection of service*. Any customer wishing to reconnect water meter service shall notify the city of such fact at least 24 hours before the date they wish the reconnection to be done. There must be someone at the residence at the time the reconnection is made. A fee of in the amount established by resolution will be charged for the reconnection of services.

C. *Disconnection by tenant*. A tenant living in a rental unit will not be allowed to request disconnection of water services. This must be done by the homeowner. In the case of a tenant moving, the unit is automatically returned into the name of the landlord. A termination billing is sent to the tenant as well as a copy to the landlord. A tenant must follow the same procedure listed in subsection B of this section.

D. *Temporary discontinuation of service*. A person may request that garbage service be discontinued on a temporary basis when the person will be away from the person's residence for a period of at least 30 days. The person will notify the city office of the time period the service will be discontinued. The utility bill will reflect the changes. Water service cannot be discontinued temporarily without having the meter completely shut off. This can be done by following steps in subsection A of this section. Sewer service cannot be discontinued.

E. *Discontinuation of service when moving*. Every person moving from the city must give a forwarding address as well as the name of the person who will assume responsibility for the bill. Without this information, the bill will continue to be sent

to the person named on the account. Any credit balance in favor of the customer as a result of an advance payment of bills or a deposit made will be refunded following the payment of the final termination bill.

F. *Foreclosure*. If a home is about to be foreclosed on, it is the responsibility of the homeowner to inform the city office that such action is about to take place. The homeowner shall also give the name of the bank or the most local phone number of a person who is familiar with the account. Any deposit being held by the city will be applied to the debt.

G. *Vacancies*. If a home becomes vacant, the owner or responsible party may request in writing that the services be disconnected. Within ten days of the date the request is made, the public works dept will disconnect the water meter. The garbage can will either be locked in a garage by the owner or the can will be removed by the city, or the city's contracted entity. Charges for 911 Emergency Service will be discontinued while the home is vacant. The sewer service will not stop, and billing will continue for that service only.

(Code 1998, § 8-1-5; Ord. No. 007-2002, 5-14-2002)

## 8-1-6 Use Without Payment Prohibited

It shall be unlawful for any person by himself, family, servants, or agents to utilize the city water or sewage system without paying therefor, as herein provided, or, without authority, to open any fire hydrant, stopcock, valve, or other fixtures attached to the system of water supply unless it is done pursuant to proper application, agreement or resolution. It shall be unlawful to injure, deface, or impair any part or appurtenance of the water or sewer system, or to cast anything into any reservoir or tank belonging to the water system.

(Code 1977, § 14-120; Code 1998, § 8-1-6)

## 8-1-7 Use Without Authority; Restrictions

A. *Turning on water after being turned off prohibited*. It shall be unlawful for any person, after the water has been turned off from the premises for nonpayment of water charges or other violation of the ordinances, rules, regulations, or resolutions pertaining to the water supply, to turn on or allow the water to be turned on or used without authority from the public works director or city recorder.

B. *Separate connections*. It shall be unlawful for two or more families or service users to be supplied from the same service pipe, connection or water meter unless special permission for such combination usage has been granted by the city council and the premises served are owned by the same owner. In all such cases, a failure on the part of any one of the users to comply with this subsection shall warrant a withholding of a supply of water through the service connections until compliance or payment has been made, and in any event, the property owner shall be primarily liable to the city for all water services utilized on all such

premises. Nothing herein shall be deemed to preclude the power of the city to require separate pipes, connections, or meters at a subsequent time.

C. *Unauthorized users*. It shall be unlawful for any water service user to permit any person from other premises or any unauthorized person to use or obtain water services regularly from the user's premises or water facilities, either outside or inside the user's premises.

D. *Adjoining premises*. No consumer shall be permitted to conduct water pipes across lots or buildings to adjoining premises without permission from the public works director and subject to such requirements relating to controls as may be imposed by the public works director.

E. *Visitors*. Individuals visiting the premises of an authorized user in a recreational vehicle, not including a mobile home, and continuing to live therein during the period of visitation may receive water service from the service pipes or facilities of the host during the visitation period which shall not exceed one month. Continued use thereafter shall be deemed unauthorized and violative of the provisions of this chapter relating to separate connections and unauthorized use.

(Code 1977, §§ 14-122--14-125, 14-127B; Code 1998, § 8-1-7)

**8-1-8 Installation Of Water Lines**

A. *Permit required*. It shall be unlawful for any person to lay, repair, alter or connect any water line to the city culinary water system without first having received a construction permit from the office of the city recorder or from the public works director.

B. *Application*. Applications for permits to make water connections or other alteration of for laying or repairing lines connected directly or indirectly to the city water system must be made in writing by a licensed plumber, the licensed plumber's authorized agent, or by the owner of the premises who shall describe the nature or the work to be done for which the application is made.

C. *Determination of approval*. The application shall be granted if the public works director determines that:

1. The connection, repair, alteration or installation will cause no damage to the street in which the water main is laid, or that it will not be prejudicial to the interests of persons whose property has been or may thereafter be connected to the water main.

2. The connection conforms to the ordinances, regulations, specifications and standards of materials required by the city.

D. *Line and grade designation*. All connections, alterations or installations shall be to the line and grade designated by the public works director.

E. *Fees*. Fees for permits or for inspection services shall be of such amounts as the city council shall from time to time determine by resolution.

F. *Moving or replacement of water lines*. In the event that the city, in its sole discretion, determines that any water line of the city must be moved or replaced, the city shall bear that portion of the cost of such move or replacement which applies to main lines up to the property lines of the customer. The cost of reconnecting such new lines from the house of the customer to the customer's property line shall be borne by the customer.

G. *When permits shall not be issued*. Permission to connect with the city water system shall not be given unless the plumbing in the house or building to be connected meets the provisions of the building and plumbing codes of the city.

(Code 1977, §§ 14-137--14-140; Code 1998, § 8-1-8)

**8-1-9 Pipe Requirements**

A. *Good repair*. All users of water services shall keep their service pipes and connections and other apparatus in good repair and protected from frost at their own expense. No person, except under the direction of the public works director, shall be allowed to dig into the street for the purpose of laying, removing or repairing any service pipe.

B. *Quality of service pipe*. All service and other pipe used in conjunction with the water services of the city shall be of such material, quality, and specifications as the city council may from time to time by resolution provide and shall be installed at such distances below ground as may be specified by regulations relating to the water department. All work, alterations, or extensions affecting water pipes shall be subject to the acceptance of the public works director, and no connections with any water mains shall be made without first obtaining a permit therefor from the city recorder.

(Code 1977, §§ 14-126, 14-127A; Code 1998, § 8-1-9)

**8-1-10 Water Mains Extended**

A. *Petition to city council*. Any person, including any subdivider, who desires to have the water mains extended within the city, and is willing to advance the whole expense of such extension and receive the return of an agreed portion thereof, as hereinafter provided, may make application to the city council by petition. The petition shall contain a proposed extension, accompanied by a map showing the location of the proposed extension, together with an offer to advance the whole expense thereof, which cost shall be verified by the public works director. The city council may grant or deny the petition as in its discretion seems best for the welfare of existing water users in the city.

B. *Cost determined*. Upon the receipt of such petition and map and before the petition is granted, the city council shall obtain from the public works director a certified statement showing the whole cost or expense of making such extension.

C. *Amount deposited*. If the city council grants the petition, the amount of the cost of making the extension, as certified by the public works director, shall be deposited with the city recorder before any work shall be done on such extension. The deposit shall be made within 30 days, or such other time as the city council shall indicate, after the granting thereof.

D. *Return of deposit*. At the time the city council decides whether or not to grant petition for an extension, it shall also decide whether or not any portion of the costs is to be refunded and the manner and circumstances under which such refund shall be made or credited to the applicant, the applicant's successors or representatives. Such determination shall be duly recorded in writing and a copy thereof furnished to the applicant.

E. *Forfeiture*. In the event any deposit remains unclaimed for a period of five years after the depositor has discontinued water service, the deposit may be forfeited and then transferred to the water enterprise fund.

F. *Ownership of extension*. Any such extension shall be deemed the property of the city.

(Code 1977, § 14-143--14-147; Code 1998, § 8-1-10)

**8-1-11 Sprinkling Vehicles**

Vehicles for sprinkling shall be regulated and controlled by the water department through the public works director of the water department.

(Code 1977, § 14-129; Code 1998, § 8-1-11)

**8-1-12 Access By Department**

The public works director and the public works director's agents shall at all ordinary hours have free access to any place supplied with water services from the city system for the purpose of examining the apparatus and ascertaining the amount of water service being used and the manner of its use. A minimum of an 18-inch radius around the water meter lid shall be free from anything that would prohibit or hamper the maintenance or reading of the water meters.

(Code 1977, § 14-130; Code 1998, § 8-1-12)

**8-1-13 Motors And Certain Machinery Restricted**

No water shall be supplied from the pipes of the city water system for the purpose of

driving motor, syphon, turbine, or other wheels, or any hydraulic engines, or elevators, or for driving or propelling machinery of any kind whatsoever, nor shall any license be granted or issued for any such purpose, except by special permission of the city council.

(Code 1977, § 14-132; Code 1998, § 8-1-13)

**8-1-14 Fire Hydrants**

Water for fire hydrants will be furnished free of charge by the city. Installation and repairs on such hydrants shall be at the expense of the city and shall be made under the direction of the city. All customers shall grant the city, upon demand, a right-of-way or easement to install and maintain such hydrants on their premises if the city concludes that hydrants shall be so installed for the protection of the residents of the city.

(Code 1977, § 14-142; Code 1998, § 8-1-14)

**8-1-15 Scarcity Of Water**

In time of scarcity of water, whenever it shall in the judgment of the mayor and the city council be necessary, the mayor shall by proclamation limit the use of water to such extent as may be necessary. It shall be unlawful for any person, that person's family, servants, or agents, to violate any proclamation made by the mayor in pursuance of this chapter.

(Code 1977, § 14-134; Code 1998, § 8-1-15)

**8-1-16 Excessive Use Of Sprinklers**

A. *Effect on city water system*. It shall be unlawful for any person to use such number of outlets simultaneously or to use such sprinkler or combinations of sprinklers or outlets as will in the opinion of the city council materially affect the pressure or supply of water in the city water system or any part thereof, and the city council may from time to time, by resolution, specify combinations or numbers of outlets which may have such effect.

B. *Order to discontinue*. The city council shall, after determining that such improper use exists, notify the affected water user or the owner of the premises whereon such use occurs of such determination in writing, order such use discontinued and advise that such continued usage constitutes a violation of this chapter.

(Code 1977, § 14-133; Code 1998, § 8-1-16)

**8-1-17 Waste Of Water**

A. *Prohibited acts*. It shall be unlawful for any water user to:

1. Waste water.

2. Allow it to be wasted by stops, taps, valves, leaky joints or pipes, or to allow tanks or watering troughs to leak or overflow.
3. Wastefully run water from hydrants, faucets, or stops or through basins, water closets, urinals, sinks or other apparatus.
4. Use the water for purposes other than for those which said user has applied, or to use water in violation of the rules and regulations for controlling the water supply.

(Code 1977, §§ 14-128, 14-135; Code 1998, § 8-1-17)

**8-1-18 Water Meters**

A. *Number of meters; dispute*. Except as otherwise expressly permitted by this chapter, all structures, dwelling units, establishments and persons using water from the city water system must have such number of water meters connected to their water system as are necessary in the judgment of the public works director to adequately measure use and determine water charges to the respective users. Whenever a dispute between the public works director and the property owner arises as to the appropriate number of meters to be installed on any premises, the matter shall be heard and determined by the city council after due notice in writing to the parties involved.

B. *Meters furnished by city*. Meters will be furnished by the city upon application for a connection and upon payment of such connection fees and other costs as may be established by the city council from time to time by resolution. Meters shall be deemed to be and remain the property of the city.

C. *Meter readings*. The public works director shall cause meter readings to be taken regularly and shall advise the utility billing clerk thereof for the purpose of recording the necessary billings for water service.

D. *Tampering*. Meters may be checked, inspected or adjusted at the discretion of the city, and they shall not be adjusted or tampered with by the customer. Meter boxes shall not be opened for the purpose of turning on or off the water, except by an authorized representative of the city, unless special permission is given by the city through its representatives to the customer to do so.

E. *Meter testing*. If a customer submits a written request to the public works director to test the customer's water meter, the city may, if under the circumstances it deems it advisable and, in its discretion, order a test of the meter measuring the water delivered to such customer. If such request is made within 12 months after the date of the last previous test, the customer may be required to pay the cost of such test. If the meter is found in such test to record less than 97 percent or more than 103 percent of accuracy under methods of testing satisfactory to the city council, the meter shall be deemed to accurately measure the use of water.

F. *Estimation in case of failure*. If the city's meters fail to register ate any time, the water delivered during the period of failure shall be estimated on the basis of previous consumption during a period which is not questioned. In the event a meter is found to be recording less than 97 percent or more than 103 percent of accuracy, the city shall make such adjustments in the customer's previous bills as are just and fair under the circumstances.

G. *Damage by customer.* All damages or injury to the lines, meters or other materials of the city on or near the customer's premises caused by any act or neglect of the customer shall, in the direction of the city, be repaired by and at the expense of the customer, and the customer shall pay all costs and expenses, including a reasonable attorney fee, which may arise or accrue to the city through its efforts to repair the damage to the lines, meters or to other equipment of the department or collect such costs from the customer.

H. *Relocation; changes*. If the city deems it necessary to have a water barrel and/or meter moved or the elevation thereof changed, or if the homeowner requests such changes, the public works director has the power to negotiate the extent of the financial responsibility to both the city and the homeowner, using the time and material method, and negotiate the time frame in which the changes will be made.

(Code 1977, § 14-136; Code 1998, § 8-1-18)

**8-1-19 Service Outside City**

A. *Scope*. The city may furnish water service from its water system to persons outside the city in accordance with the provisions of this chapter.

B. *Petition for service*. Any person located outside the city limits who desires to be supplied with water services from the city water system and is willing to pay in advance the whole expense of extending the water system to that person's property, including the cost of extending any water main beyond its present location, may make application to the city council by petition containing:

1. A description of the proposed extension.
2. A map showing the location thereof.
3. An offer to pay the whole expense incurred by the city in providing such extension and to advance such expense as shall be verified to by the public works director. The city council and the person seeking such extension may enter into an agreement providing, in detail, the terms under which the extension may be utilized by others in the future and the terms under which all or any portion of the cost of installing such extension may be refunded.

4. An acknowledgment that the city in granting the petition need supply only such water to the petitioner which from time to time the city council deems beyond the requirements of water users within the city limits, and that such extension shall be the property of and subject to the control of the city.

C. *Costs determined*. Upon receipt of such petition and map and before the petition is granted, the city council shall determine what portion, if any, of the extension of the city water mains to the city limits the city shall construct and shall obtain from the public works director a verified statement showing the whole cost and expense of making such extension. Such costs and expenses shall include administrative and supervisory expenditures of the water department, which shall in no event be deemed to be less than ten percent of the cost of materials and labor.

D. *Extensions may be master metered*. When an extension supplying more than one house or user outside the city limits is connected to city water mains, the public works director may require a master meter to be installed near the point where the connection is to be made to the city main. This installation will be at the expense of the persons served by such extension according to the regular rates for meter installation. Responsible parties must agree to pay all bills for water served through the meter at the applicable water rates.

(Code 1977, §§ 14-151--14-154; Code 1998, § 8-1-19)

**8-1-20 Nonliability For Damages**

The city shall not be held liable for any damage to a water service user by reason of stoppage or interruption of the user's water supply service caused by fires, scarcity of water, accidents to the water system or its mains, or which occurs as the result of maintenance and extension operations, or from any other unavoidable cause. This section shall not be construed to extend the liability of the city beyond that provided in the Governmental Immunity Act of Utah (U.C.A. 1953, § 63G-7-101 et seq.).

(Code 1977, § 14-131; Code 1998, § 8-1-20)

**8-1-21 Water Availability Requirement**

A. *Legislative intent*. The city intends this chapter to ensure that the city culinary water system continues to serve all water users connected thereto and meets state and federal requirements regarding water usage, water quality, fire protection, and public health and safety. The city also intends through this chapter to continually plan and prepare for its future water requirements for a period of 40 years into the future.

B. *City water system master plan*. The city shall undertake to acquire and maintain

sufficient water rights, source, and capacity for the present and reasonable future water requirements of the city within the city's projected service area based upon projected population growth or other water-use demand. All developments within the city's actual or projected service area shall therefore adhere to the requirements set forth in the city water system master plan (the water plan).

1. The water plan shall incorporate information as to currently available water rights, water source capacity, reserve source capacity, storage capacity, system capacity, the current number of service connections, outstanding letters of commitment, and other system demands, as well as setting forth any surplus capacity and the number of new equivalent residential connections (ERCs) such surplus can serve.
2. The water plan shall be updated at the discretion of the city council to include any anticipated new ERCs, other system demands, or a capital improvement and financing plan (or a reference to and summary thereof) to meet the anticipated demand. Such an update:
    a. Shall be carried out, signed, dated, and stamped by a licensed professional civil engineer or professional geologist, retained or employed by the city; and
    b. Must be approved and adopted by resolution of the city council prior to taking effect.

C. *Culinary water authority*. The public works director of the city is hereby designated as the culinary water authority (CWA) of the city.

D. *Plat approval*. No final plat shall be valid unless approved on its face by the CWA.

1. The CWA approval requirement is intended to ensure that with either dedication of water or payment-in-lieu, as provided herein, there will be sufficient water rights, water storage, and water capacity to meet the present and future needs of the city.
2. The CWA shall not give approval to any final plat until:
    a. The developer dedicates to the city water rights or water shares as follows:
        (1) The amount of culinary water to be dedicated shall be a minimum depletion amount of 0.45 acre-feet per year, approved for municipal use, per year per ERC for indoor use. Culinary water rights dedicated hereunder shall be perpetual in character and readily capable of use by the city.

        (2) (A) The general requirement for outdoor water shall be

one acre-foot of water per one-quarter acre of net irrigated area, defined as:

(a) 64 percent of the total area of a lot up to one-half acre; and

(b) 60 percent of the total acreage of lots over one-half acre in size.

(B) All open space within a development shall generally be considered as irrigated acreage, and three-quarters of an acre-foot of outdoor water per one-quarter acre or any portion thereof shall be required, unless a different plan is proposed by the developer and is approved by the city.

(C) All outdoor water use, pursuant to state law, shall be subject to the duty values promulgated by the division of water rights, the necessary water for which shall be in addition to the amounts required above.

(3) For nondomestic and nonirrigation uses, water dedication quantity shall be determined by a development-specific, water-usage analysis undertaken at the expense of the developer and acceptable to the city.

(4) The water rights or sources dedicated shall be legally and physically sufficient to satisfy the indoor and outdoor use requirements of all of the property in the development according to the requirements set forth in UAC r 309-510-7, or any successor provision.

(5) A developer may submit an application for dedication of water, together with the necessary filing fee:

(A) Prior to or concurrently with submission of a preliminary plat (or, in the case of a minor subdivision, with the sketch plat) for proposed subdivisions or master planned developments;

(B) Prior to or concurrently with submission of an application for a building permit for other developments; or

(C) After rejection of a preliminary or final plat due to an insufficiency under subsection D.2.a of this section.

(6) Acceptance of any dedication of water hereunder shall be

expressly contingent upon final, nonappealable approval by the state division of water rights.

(A) Before final acceptance of a dedication, the water right must be subject to a final, nonappealable approval by the state division of water rights allowing (I) diversion from one or more of the city's sources, or from another source acceptable to the city in its sole discretion, and (II) municipal or irrigation use within the city's service area.

(B) Notwithstanding the foregoing (i.e., subsection D.2.a.vii.I of this section), approval shall not be required for shares or rights acceptable to the city held under a properly organized and lawfully operating water company serving lands or property within the city's service area, including the Spring Creek Water Company and the Providence Blacksmith Fork Irrigation Company.

(7) Any developer seeking division of water rights approval as contemplated hereunder shall, upon request of the CWA, yield to the city all power and authority to prosecute the filing, review, and approval process, which shall be filed in the city's name. The developer shall be responsible to pay all of the fees, costs, and expenses associated with the filing, review, and approval process.

(8) Within 20 business days after an application has received final nonappealable approvals from the state division of water rights, the city shall notify the developer of the fact. The developer may then proceed to final dedication of the water rights or water shares.

(A) For water rights, dedication shall be by a water right deed of the form approved by the city, but which shall include a warranty of title and water title insurance at the expense of the developer.

(B) For water shares of a water company, the dedication shall be by the transfer of the shares to city by issuance of a share certification by the water company showing the city as the owner of the shares dedicated.

(9) If an application is denied by the state division of water rights or by a court of competent jurisdiction, the city shall

have no obligation to accept the water rights as satisfaction of the dedication requirement of this section.

(10) Final dedication of the water right or water shares must be completed prior to the recording of the final plat on the land being developed, or prior to issuance of a building permit for nonsubdivision developments.

(11) Notwithstanding any other provision of this Code, the city shall be under no obligation to approve or to accept any dedication if the CWA determines that acceptance of the water rights or water shares being offered for dedication is not in the best interest of the city. Any appeal of the determination by the CWA not to accept the dedication particular water rights or water shares may be appealed to the city council.

b. Upon recommendation of the CWA, the city council determines that the city has sufficient water rights or water shares to meet its reasonable future water requirements of the public within the service area of the city adopts a Resolution stating that, in lieu of dedication, the city will accept cash or other property equivalent in value to the market value of the water rights and/or shares the dedication of which would otherwise be required under subsection D.2.a of this section. The value of the hypothetical water rights or shares shall be based upon the most recent information available of similar water sales as determined by the CWA.

c. Exceptions.

(1) In lieu of providing actual water rights to the city, good-faith amendments to existing platted subdivisions that require only up to a total of two acre-feet or less of additional indoor water and/or only up to a total of eight acre-feet or less of additional outdoor water for full development, may, at the time each building permit is issued for each lot, pay any applicable indoor and outdoor water rights acquisition impact fees specified by the city code.

(2) Minor subdivisions and small planned unit developments which have a projected indoor and outdoor water usage of less than eight acre-feet may be exempt from the foregoing requirement to provide indoor and outdoor water, upon a finding and waiver by the CWA and the city council.

(A) The necessary finding shall include, without limitation, a finding that the development for which the exception is sought is in fact a minor

subdivision or small planned unit development, as those terms are defined by this Code, and is not simply a portion or phase of a larger development being presented as a minor subdivision or small planned unit development for the purpose of circumventing the provisions of this section.

(B) If such a finding and waiver is granted, a water acquisition impact fee will be charged pursuant to the provisions of the city code.

d. If the city's authorized impact fees contain a component for the acquisition or dedication of new water rights, developers who pay such impact fees on properties developed or to be developed pursuant to this section shall be (i) credited for the amount of that water acquisition component, or (ii) reimbursed from subsequent hookup fees paid by owners within such a development. The amount, receipt, or payment of the credit or reimbursement shall be set forth in a development agreement between the developer and the city.

3. CWA approval of a subdivision shall be sufficient for any approved lot within that subdivision. Such approval, however, shall expire if a final plat for such subdivision is not approved with a one-year period after the approval is given.

E. *No alteration of other requirements*. Nothing in this section shall alter or change any other requirement of the city ordinances relating to any building lot, subdivision approval, or other land-use application, but shall be in addition to any such requirements. CWA approval of a plat does not vest any rights in a developer, owner, or applicant; such approval serves only as a preliminary indication that sufficient water pursuant to the requirements of the city appears to be available. It does not constitute a determination by the land use authority that a concept plan, a preliminary plat, or a final plat complies with all the requirements relating to water infrastructure, sewer, ditches, or other items relating to water delivery, usage, quality, and safety.

(Code 1998, § 8-1-21)

## CHAPTER 8-1A DRINKING WATER SOURCE PROTECTION

8-1A-1 Title And Purpose
8-1A-2 (Reserved For Future Use)
8-1A-3 Administration
8-1A-4 Protection Zones Established
8-1A-5 Permitted Uses

8-1A-6 Prohibited Uses

## 8-1A-1 Title And Purpose

A. *Title*. This article shall be known as the Drinking Water Source Protection Article.

B. *Purpose*. The purpose of this article is to ensure the provision of a safe and sanitary drinking water supply for the city by the establishment of drinking water source protection zones surrounding the wellheads for all wells which are the supply sources for the city water systems and by the designation and regulation of property uses and conditions which may be maintained within such zones.

(Code 1998, § 8-1A-1; Ord. No. 14-160, 10-14-1997, 10-14-1997)

## 8-1A-2 (Reserved For Future Use)

## 8-1A-3 Administration

The policies and procedures for administration of any source protection zone established under this article, including, without limitation, those applicable to nonconforming uses, exception, enforcement and penalties, shall be the same as provided in the existing zoning title, as the same is presently enacted or may from time to time be amended.

(Code 1998, § 8-1A-3; Ord. No. 14-160, 10-14-1997)

## 8-1A-4 Protection Zones Established

There is hereby established use districts to be known as Zones 1, 2, 3 and 4 of the drinking water source protection area, identified and described as follows:

A. *Zone 1*. Zone 1 is the area within a 100-foot radius from the wellhead.

B. *Zone 2*. Zone 2 is the area within a 250-day groundwater time of travel to the wellhead, the boundary of the aquifer which supplies water to the groundwater source, or the groundwater divide, whichever is closer.

C. *Zone 3*. Zone 3 (waiver criteria zone) is the area within a three-year groundwater time of travel to the wellhead or margin of the collection area, the boundary of the aquifer which supplies water to the groundwater source, or the groundwater divide, whichever is closer.

D. *Zone 4*. Zone 4 is the area within a 15-year groundwater time of gravel to the wellhead, the boundary of the aquifer which supplies water to the groundwater source, or the groundwater divide, whichever is closer.

(Code 1998, § 8-1A-4; Ord. No. 14-160, 10-14-1997)

## 8-1A-5 Permitted Uses

The following uses shall be permitted within drinking water source protection zones:

A. Any use permitted within existing agricultural, single-family residential, multifamily residential and commercial districts, so long as uses conform to the rules and regulations of the regulatory agencies.

B. Any other open land use where any building located on the property is incidental and accessory to the primary open land use.

(Code 1998, § 8-1A-5; Ord. No. 14-160, 10-14-1997)

## 8-1A-6 Prohibited Uses

The following uses or conditions shall be and are hereby prohibited within drinking water source protection zones, whether or not such use or condition may otherwise be ordinarily included as a part of a use permitted under PCC 8-1A-5:

A. *Zone 1*. The location of any "pollution source," as that term is defined in PCC 8-1A-2.

B. *Zone 2*. The location of a pollution source unless its contaminated discharges can be controlled with design standards.

C. *Zones 3 and 4*. The location of a potential contamination source unless it can be controlled through land management strategies.

(Code 1998, § 8-1A-6; Ord. No. 14-160, 10-14-1997)

# CHAPTER 8-2 SEWER SERVICE REGULATIONS

8-2-1 (Reserved For Future Use)
8-2-2 Use Of System Mandatory
8-2-3 Application For Connection, Service
8-2-4 Fees
8-2-5 User Charges
8-2-6 Statement Of Charges; Delinquency
8-2-7 Installation And Connection To System
8-2-8 Materials And Construction
8-2-9 Use Permits
8-2-10 Industrial Pretreatment
8-2-11 Access By Department
8-2-12 Prohibited Uses And Regulations
8-2-13 Services Outside City
8-2-14 Penalty
8-2-15 Service Line Repair

**State law reference**—Sewers, U.C.A. 1953, § 10-8-38.

## 8-2-1 (Reserved For Future Use)

## 8-2-2 Use Of System Mandatory

A. *Restrictions*. It shall be unlawful for the owner or other person having charge of or occupying any property, upon which a building used for human occupancy shall have been or is being constructed, and any part of the building is within 200 feet of a public sewer then in existence and used in the city, to construct or permit to be constructed or to use, or to permit to be used, any privy vault, septic tank or cesspool connection with such building.

B. *Notice*. Whenever an accepted public sewer is available to receive connections therewith, the city manager shall cause appropriate notice to be served upon the owner, agent, or other person having charge of or occupying all property coming within scope of this section, that said public sewer is ready to receive connections therewith and that all plumbing must be connected with such sewer.

C. *Compliance*. Each such owner or other person shall, within 60 days after having been given notice by the city that an accepted public sewer is available within 300 feet of such property line and ready to receive connections, cause such building to be connected with said sewer, except that if such building shall not at the time such notice is given have therein any toilets, the owner or other person having charge thereof or occupying such building shall have a period of two years within which to connect it with such public sewer, and it shall thereafter be unlawful for such owner or other person to have the plumbing in such building remain unconnected to the public sewer or to maintain or use or cause to permit or exist any privy vault, septic tank or cesspool to which said building is connected or which is used by the occupant thereof.

D. *Services discontinued*. Whenever the owner, agent or other person having charge of or occupying any property coming within the scope of this section has been properly notified to make connection with an available public sewer and has not made or caused to be made such connection, or when such connection has been made but the connection and/or service charges therefor have not been paid, any water service to such premises shall immediately be discontinued, as provided in this chapter. Those to be excluded will be considered on an individual basis.

E. *Exceptions*. Citizens do not have to connect their buildings to a sewer if:

1. Structure is not in source protection zone 1 or 2; and
2. A sewer main line is not parallel to the property line; or
3. Connecting would require an ejection pump for all floors of a structure; or

4. An existing home was annexed to the city from the county over the owner's objections.

The city may enter into an agreement with property owners who do not connect to the sewer within five years of this chapter being enacted wherein the property owner will agree to connect to the sewer upon sale or transfer of the property.

All other structures must connect to the sewer.

Zone designations change with demands on the aquifer so a home in Zone 3 today may be in Zone 2 in five years. If that happens, the home must be hooked to the sewer system.

(Code 1998, § 8-2-2; Ord. No. 88-1, 4-12-1989; Ord. No. 003-2008, 2-26-2008)

## 8-2-3 Application For Connection, Service

A. *Connection*. Any person other than a subdivider who must comply with PCC title 11, who desires or is required to secure a new connection to the city sewer system, shall file with the sewer department for each such connection a written and signed connection application, which is on file in the office of the sewer department.

B. *Service*. Any person who desires or is required to secure sewer service when such service is available from the city sewer system, shall file with the sewer department a written application and agreement for the service, which is on file in the office of the sewer department.

C. *Nonowner applicants*. Applications for sewer service made by the tenant of an owner must, in addition to the requirements in subsection B of this section, be guaranteed by an agreement signed by the owner of the premises or the owner's duly authorized agent in such form as is on file in the office of the sewer department.

(Code 1998, § 8-2-3; Ord. No. 88-1, 4-12-1989; Ord. No. 003-2008, 2-26-2008)

## 8-2-4 Fees

A. *Service rates and connection fees*. The rates, penalty fee for delinquency in payment, and connection fees for sewer services from the city sewer system shall be fixed from time to time by resolution or ordinance of the city council. The city council may from time to time enact rules for levying, billing, guaranteeing and collection charges for sewer services and all other rules necessary for the management and control of the sewer system.

B. *Special rates*. The city council may from time to time fix by agreement or

resolution special rates and/or conditions upon such terms as they may deem proper for users of the sewer service discharging wastes of unusual characteristics or making use thereof under exceptional circumstances.

C. *Complaints; corrections*. The city council is hereby constituted a board of equalization of sewer rates to hear complaints and make corrections of any assessments or charges deemed illegal, unequal, or unjust.

(Code 1998, § 8-2-4; Ord. No. 88-1, 4-12-1989; Ord. No. 003-2008, 2-26-2008)

## 8-2-5 User Charges

A. *Purpose*. The purpose of this section shall be to generate sufficient revenue to pay all costs for the operation and maintenance of the complete wastewater system. The costs shall be distributed to all users of the system in proportion to each user's contribution to the total loading of the treatment works. Factors such as strength (BOD and TSS), volume, and delivery flow rate characteristics shall be considered and included as the basis for the user's contribution to ensure a proportional distribution of operation and maintenance costs to each user (or user class).

B. *Determining factors*.

1. *Annual operation and maintenance costs*.

a. *Established*. The city shall determine the total annual costs of operation and maintenance of the wastewater system which are necessary to maintain the capacity and performance, during the service life of the treatment works, for which such works were designed and constructed. The total annual cost of operation and maintenance shall include, but need not be limited to, labor, repairs, equipment replacement, maintenance, necessary modifications, power, sampling, laboratory tests, and a reasonable contingency fund.

b. *Toxic pollutants; increased costs*. Each user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or sludge of the city collection and trunk line or the city's, or the city's contracted entity's, treatment works shall pay for such increased costs.

2. *User's contribution percentage*.

a. The city shall determine for each user or user class the average daily volume of wastewater discharged to the wastewater system, which shall then be divided by the average daily volume of all wastewater discharges to the wastewater system to determine

such user's volume and contribution percentage.

b. The city shall determine for each nonresidential user or user class the average daily poundage of five-day 20 degree Celsius biochemical oxygen demand (BOD) discharged to the wastewater system which shall then be divided by the average daily poundage of all five day BOD discharged to the wastewater system to determine such user's BOD contribution percentage.

c. The city shall determine for each nonresidential user or user class the average daily total suspended solids (TSS) poundage discharges to the wastewater system which shall then be divided by the average daily poundage of all TSS discharged to the wastewater system to determine such user's TSS contribution percentage and TSS contribution percentage for each user or user class shall be multiplied by the annual operation and maintenance costs for wastewater treatment of the total of the total volume flow, total five-day 20 degree Celsius BOD and total TSS, respectively.

d. Average user flows and strength contribution for residential users has been determined to be 8,000 to 12,000 gallons per month, BOD of 200 mg/L, TSS of 250 mg/L. In those cases where a user exceeds the average minimum flow, the volume of wastewater shall be based on the gallons of water used with said water usage being based on average wintertime flows.

3. *Surcharge for excessive and regulated users*. Should it become necessary, the city will assess a surcharge rate for all "regulated users," as that term is defined in PCC 1-3-2, and those which discharge wastes with BOD and TSS strengths greater than the average sufficient to cover the additional administrative and inspection costs associated with such users and for additional efforts required to treat such waste.

4. *Wastewater service charge*. Each nonresidential user's wastewater treatment cost contributions as determined in subsections B.2 and 3 of this section shall be added together to determine such user's annual wastewater service charge. Residential users may be considered to be one class of user based on an estimate of the total wastewater contribution of this class of user. The city council may classify industrial, commercial, and other nonresidential establishments as a residential user, provided that the wastes from these establishments are equivalent to the wastes from the average residential user with respect to volume, total suspended solids and BOD. Each user's wastewater treatment cost contribution will be assessed in accordance with the rate schedule available at the city office.

C. *Replacement fund*. A reserve fund, called the wastewater facilities replacement

fund, is hereby established within the wastewater utility fund for the purpose of providing sufficient funds to be expended for obtaining and installing equipment, accessories and appurtenances during the useful life (20 years) of the wastewater treatment facilities necessary to maintain the capacity and performance for which such facilities are designed and constructed.

D. *Review of costs and contribution*.

1. *Required*. The city shall review the total annual cost of operation and maintenance as well as each user's wastewater contribution percentage not less often than every two years and will revise the system necessary to ensure equity of the service charge system established herein and to ensure that sufficient funds are obtained to adequately operate and maintain the wastewater treatment works. The city shall apply excess revenues collected from a class of users to the costs of operation and maintenance attributable to that class for the next year and adjust the rate accordingly. If a significant user, such as an industry, has completed in-plant modifications which would change that user's wastewater contribution percentage, the user can present, at a regularly scheduled meeting of the city council, such factual information and the city shall then determine if the user's wastewater contribution percentage is to be changed. The city shall notify the user of its findings as soon as possible.

2. *Notification*. Each user will be notified, at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to wastewater treatment services.

(Code 1998, § 8-2-5; Ord. No. 14-290, 4-12-1989; Ord. No. 003-2008, 2-26-2008)

**8-2-6 Statement Of Charges; Delinquency**

A. *Statement.* The sewer department, or such other person as the city council may designate, shall furnish to each user by mail or leave at the user's place of residence or usual place of business, a written or printed statement stating the sewer service charges assessed against the user once each month or at such other regular intervals as the city council shall direct. The statement shall specify the amount of the bill, the place of payment, and the date due.

B. *Notice of discontinuance*. If any person fails to pay sewer charges within 30 days of the date due, the city recorder or the city manager shall give the customer notice in writing of the intent to discontinue the service of water to the premises unless the customer pays the bill in full within five days from the date of notice.

C. *Reconnection*. If the water service is thereafter discontinued for failure to make payment of the sewer service charges, before the water service to the premises shall again be provided, all delinquent sewer charges must have been paid to

the city treasurer or arrangements made for their payment that are satisfactory to the city.

D. *Additional charges*. In the event water is turned off for nonpayment of sewer charges, before the water services to the premises shall again be provided, the customer shall pay, in addition to all delinquent charges, such extra charge for turning the water on and off as the city council may have established be resolution or ordinance.

E. *Collection enforcement*. If any person fails to pay sewer charges within 30 days of the due date, the city recorder or the city manager is hereby authorized to take all action necessary to enforce collection, including, but not limited to, the commencement of legal proceedings in a court of proper jurisdiction seeking judgment for all the amount of the delinquent fees and service charges and all costs of collection, including court costs and reasonable attorney fees.

(Code 1998, § 8-2-6; Ord. No. 88-1, 4-12-1989; Ord. No. 003-2008, 2-26-2008)

## 8-2-7 Installation And Connection To System

A. *Separate connections*. A separate and independent building sewer shall be provided for every building; except where an accessory building stands at the rear of a main building and a private sewer cannot be constructed to the accessory building through an adjoining alley, court, yard, or driveway. In such case, the building sewer from the front building may be extended to the rear accessory building and the whole considered as one building sewer. Both buildings must be under common ownership and the city does not and will not assume any obligation or responsibility for damage cause by or resulting from any such single connection aforementioned.

B. *Service line extension*.

1. Once the application for sewer service has been made and accepted and the required fees have been paid by the applicant, the sewer line can be extended.

2. This subsection B refers to those extension lines installed at the time of initial construction of the sewer trunk lines. After the initial installation of a sewer trunk line, anyone connecting to the sewer line must make application to the sewer department as well as the street department. The applicant will bear all costs of materials and labor for sewer installation and for repair to streets, curbs, sidewalks, and landscape. A city employee or city inspector must be on site during the excavation, installation and backfill of any section of the sewer line on city property or right-of-way. Twenty-four hours' notice for inspections is required.

C. *Permit*.

1. *Required*. It shall be unlawful for any person to directly or indirectly engage in the laying, repairing, altering or connecting of any drain or sewer pipe connected with or part of the city sewer system without first having received a permit from the office of the city recorder or the city.
2. *Adequate plumbing*. Permits to connect to the city sewer system shall not be issued unless the plumbing in the house or building to be connected is in accordance with the provisions of the building and plumbing codes of the city.

D. *Licensed plumber; exception*. It shall be unlawful for any person to connect any drain or sewer pipe with the city sewer system unless the person is a duly licensed plumber or unless, in the absence of a duly licensed plumber, any proposed connection to, alteration of, or change of connection to the sewer system shall be first submitted to the city engineer for review and approval. After such approval, the installation or work done must be inspected by the city engineer or the city engineer's agent.

E. *Ownership of connecting lines*. Unless provision is expressly made for ownership of mains or lines by the owner of the adjacent property by means or written agreement, all lines and mains connecting the sewer system to a landowner and resident's premises which are situated on the public way between the main and the property line shall be deemed to be the property of the city and subject to its absolute control and supervision, even though actual installation may have been performed by the owner or resident of the premises.

F. *Issuance, revocation of permit*. All construction permits for sewer connections or installations shall be issued to the plumber who is to do the work or to the owner of the property, with supervision and inspection by the city manager or the city manager's agents. The city manager or the city manager's agents may at any time revoke a permit because of defective work or because of undue delay in completing the permitted work.

(Code 1998, § 8-2-7; Ord. No. 88-1, 4-12-1989; Ord. No. 003-2008, 2-26-2008)

## 8-2-8 Materials And Construction

A. *Code compliance*. The size, slope, alignment and materials of construction of all sanitary sewers, including building sewers, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city.

B. *Compaction*. At the time of installation of sewer lines or sewer service pipe, and thereafter as may be recommended or required by the city engineer, compaction of all sewer lines or sewer service pipe trenches located within city rights-of-way

shall be strictly required. Method of compaction shall be dependent upon the type of soil and location of the trench and shall be at the discretion of the city engineer. Such trenches shall be approved by the city engineer after on-site inspection and testing.

C. *Excavation*. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from the hazards. Streets, sidewalks, parkways, and other public property disturbed in the course of work shall be restored in a manner satisfactory to the city.

D. *Inspection*. The applicant for the building sewer permit shall notify the city engineer when the building sewer is ready for inspection and connection to the public sewer. The connection and testing must be made under the supervision of the city engineer or the city engineer's agent.

E. *Service lines*.

1. *Pipes in good repair*. All users of the sewer services shall keep their service pipes, connection, and other apparatus in good repair and protected from frost at their own expense. No person, except under the direction of the city engineer, shall be allowed to dig into the street for the purpose of removing or repairing any sewer service pipe or main.

2. *Quality of service pipe*. All service and other pipes used in conjunction with the sewer services of the city shall be of such material, quality and specifications as the city council may from time to time by resolution provide and shall be installed at such distances below ground as may be specified by regulations relating to the sewer department. All work, alterations or extensions affecting sewer pipes shall be subject to the acceptance of the public works director or city engineer, and no connections with sewer mains shall be made without first obtaining a permit therefor from the city recorder.

3. *Old service connections*. Old building sewers may be used in connection with new buildings only when they are found, on examination and test, and the results reviewed, by the city engineer, to meet all requirements of this chapter.

4. *Clean-outs*. A clean-out consisting of a wye, a four-inch pipe to the surface, and a brass cap must be installed at or near the property line and all bends.

5. *Trial sewer survey*. In order to determine the feasibility of connecting a basement or proposed basement to the sanitary sewer, the owner or plumber may make application for a trial sewer survey, the cost of which shall be as established from time to time by resolution of the city council. The result of a trial sewer survey shall not constitute a permit to connect to the sewer and is merely for information purposes.

(Code 1998, § 8-2-8; Ord. No. 88-1, 4-12-1989; Ord. No. 003-2008, 2-26-2008)

## 8-2-9 Use Permits

A. *Industrial use*. Any industrial user of the sewer producing industrial wastes (other than domestic household wastes) will be required to apply for a permit. Such notice shall be given by the city's, or the city's contracted entity's, engineer or delegate and an application for permit on a form supplied by the city's, or the city's contracted entity's, engineer must be filed with the city's, or the city's contracted entity's, engineer within 30 days after receipt of notice. Within 30 days after the application is received, the city's, or the city's contracted entity's, engineer or delegate shall issue a permit good for not more than one year, which shall contain as a minimum the following information:

1. Applicable pretreatment standards and/or discharge limits.
2. A compliance deadline date or effective date of limits.
3. Reporting requirements as appropriate.
4. A statement of the effective date, the expiration date and the authority to revoke in the event of noncompliance.
5. Any person discharging industrial waste into the sewer system without a permit, or in violation of the terms of the permit, shall be guilty of a Class C misdemeanor, and subject to the penalty provisions contained in PCC 1-4-1.

B. *Waste haulers*. Waste haulers shall not be permitted to dispose of waste in the city sewer system. The dumping of concentrated waste shall be at a location designated by the city, or the city's contracted entity, and within 30 days after written notice, any waste hauler shall be required to apply for a permit at the office of the city's, or the city's contracted entity's, engineer. Within 30 days after application, the city's, or the city's contracted entity's, engineer or delegate shall issue a permit which shall include the following:

1. Duration of the permit which shall be not more than one year.
2. A requirement that the waste hauler submit a manifest form for any waste to be deposited in the city's, or the city's contracted entity's, sewer system which shall include the name of the customer, the type of waste and the estimated volume of the waste. The waste hauler must certify that the manifest is true, accurate and complete. No waste from oil, sand or grease traps will be accepted for discharge into the sewer system.

(Code 1998, § 8-2-9; Ord. No. 88-1, 4-12-1989; Ord. No. 003-2008, 2-26-2008)

## 8-2-10 Industrial Pretreatment

A. *Limitations*.

1. Upon the promulgation of federal categorical pretreatment standards for a particular industrial category, developed pursuant to 40 CFR 403.6, the federal standard, if more stringent than limitations imposed herein for sources in that category, shall immediately supersede the limitations imposed herein. The city engineer shall notify all affected users of the applicable reporting requirements under 40 CFR 403.12.
2. Notwithstanding the foregoing federal categorical pretreatment standards, the city reserves the right to change local limits as circumstances may require which limits may be more stringent than the federal standards; provided, however, that the city engineer shall notify all affected users of any new and more stringent local standards not less than 30 days prior to the effective date of the new local standards.

B. *Treatment provided by discharger*. Where necessary, in the opinion of the city engineer, a discharger shall provide, at the discharger's expense, such preliminary treatment as may be necessary to ensure the elimination of all pollutants or other materials, the discharge of which is prohibited by this chapter. If necessary, a spill prevention, containment and control plan shall also be developed. Plans, specifications, and other pertinent information relating to the proposed preliminary treatment facilities shall be submitted for the approval of the city engineer, and no construction of such facilities shall be commenced until said approval is obtained in writing.

C. *Compliance schedule*.

1. Where additional pretreatment and/or operation and maintenance activities will be required to comply with this chapter, the discharger shall provide a declaration of the shortest schedule by which the discharger will provide such additional pretreatment and/or implementation of additional operational and maintenance activities.
2. The schedule shall contain milestone dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the discharger to comply with the requirements of this chapter, including, but not limited to, dates relating to hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, and all other acts necessary to achieve compliance with this chapter.
3. Under no circumstances shall the city permit a time increment for any single step directed toward compliance which exceeds nine months.
4. No later than 14 days following each milestone date in the schedule and the final date for compliance, the discharger shall submit a progress

report to the city, including no less than a statement as to whether or not it complied with the increment of progress represented by that milestone date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the discharger to return the construction to the approved schedule. In no event shall more than nine months elapse between such progress reports to the city.

D. *Reporting requirements for discharges*.

1. *Compliance date report*. Within 90 days following the date for final compliance by the discharger with applicable pretreatment standards set forth in this chapter or 90 days following commencement of the introduction of wastewater into the POTW by a new discharger, any discharger subject to this chapter shall submit to the city a report indicating the nature and concentration of all prohibited or regulated substances contained in its discharge, and the average and maximum daily flow in gallons. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the discharger into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the discharger.

2. *Periodic compliance reports*.

    a. Any discharger subject to a pretreatment standard set forth in this chapter, after the compliance date of such pretreatment standard, in the case of a new discharger, after commencement of the discharge to the city, shall submit to the city during the months of June and December, unless required more frequently by the city, a report indicating the nature and concentration of prohibited or regulated substances in the effluent which are limited by the pretreatment standards in the effluent which are limited by the pretreatment standards hereof. In addition, this report shall include a record of all measured or estimated average and maximum daily flows during the reporting period reported in this subsection. Flows shall be reported on the basis of actual measurement; provided, however, where cost or feasibility consideration justify, the city may accept reports of average and maximum flows estimated by verifiable techniques. The city, for good cause shown considering such factors as local high or low flow rates, holidays, budget cycles, or other extenuating factors, may authorize the submission of said reports on months other than those specified above.

    b. Reports of discharges shall contain all results of sampling and

analysis of the discharge, including the flow and the nature and concentration, or production and mass where required by the city. The frequency of monitoring by the discharger shall be as prescribed in the applicable pretreatment standard of this chapter.

3. *Standards*. All analyses shall be performed in accordance with 40 CFR 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis may be performed in accordance with the procedures set forth in the EPA publication, Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants, April 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the administrator of the EPA or by any other reasonable method approved by the city.

E. *Manhole*. When required by the city engineer, the owner or occupier of any property or building served by a sewer carrying industrial wastes which, in the opinion of the city engineer, needs to be monitored to ensure compliance with this chapter, shall install a suitable control manhole in the sewer to facilitate observation, sampling and measurement of the wastes. Such manholes, when required, shall be accessible at all times.

F. *Monitoring*.

1. *Facilities*. Each discharger whose effluent, in the opinion of the city engineer, needs to be pretreated or monitored, shall provide and operate at the discharger's own expense, a monitoring facility to allow inspection, sampling, and flow measurement of each sewer discharge to the treatment works. Each monitoring facility shall be situated on the discharger's premises, except where such a location would be impractical or cause undue hardship on the discharger, the city may concur with the facility being constructed in the public street or sidewalk area, providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling facility to allow accurate sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the discharger. Sampling procedures shall be in accordance with guidelines provided by the city.

2. *Construction*. All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications. Construction shall be completed within 120 days of written request by the city engineer to install such facilities.

3. *Inspection and sampling*. The city may inspect the monitoring facilities of any discharge to determine compliance with the requirements of this chapter. The discharger shall allow the city or the city's representatives to

enter upon the premises of the discharger at all reasonable hours, for the purposes of inspection, sampling, or records examination. The city shall have the right to set upon the discharger's property such devices as are necessary to conduct sampling, inspect compliance, monitoring and/or metering operations. At the city engineer's request, at the discharger's expense, the discharger shall do such monitoring and testing, inspection or sampling as the city engineer deems necessary to ensure compliance with this chapter. The results of all such activities shall be immediately available to the city.

4. *Noncomplying discharges; publication*. The city shall annually publish in a local newspaper a list of the discharges which were not in compliance with applicable pretreatment requirements at least once during the previous 12 months.

G. *Confidential information*.

1. Information and data furnished to the city with respect to the nature and frequency of discharge shall be available to the public or other government agency without restriction, unless the discharger specifically requests and is able to demonstrate to the satisfaction of the city that the release of such information would divulge information, process or methods of production entitled to protection as trade secrets or proprietary information of the discharger.

2. When requested by a discharger furnishing a report, the portions of a report which may disclose trade secrets or secret processes shall not be made available upon written request to governmental agencies for uses related to this chapter; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceeding involving the discharger furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

3. Information accepted by the city as confidential shall not be transmitted to any governmental agency until and unless a ten-day notification is given to the discharger.

4. All dischargers subject to this chapter shall retain and preserve for no less than three years, any records, books, documents, memoranda, reports, correspondence, and any and all summaries thereof, relating to monitoring, samplings and chemical analysis made by or on behalf of a discharger in connection with its discharge. All records which pertain to matters which are the subject of administrative adjustment or any other enforcement or litigation activities brought by the city pursuant hereto shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any

and all appeals have expired. If after monitoring, sampling and testing, etc., the city engineer deems it necessary that the discharger pretreat the effluent in order to comply with this chapter, the discharger shall do so at the discharger's own expense and according to the compliance schedule established for the discharger after being so instructed by the city engineer.

H. *Facility maintenance*. Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner or discharger at the owner's or discharger's own expense.

I. *Enforcement of program*.

1. *Emergency suspension of service*. The city may, for good cause shown, suspend the wastewater treatment service to a discharger when it appears to the city that an actual or threatened discharge presents or may present an imminent or substantial danger to the health or welfare of persons, substantial danger to the environment, interference with the operation of the treatment plant, or violate any pretreatment limits imposed by this chapter. Any discharger notified of the suspension of the city's wastewater treatment service shall, within a reasonable period of time as determined by the city, cease all discharges. In the event of failure of the discharger to comply voluntarily with the suspension order within the specified time, the city shall commence judicial proceedings immediately thereafter to compel the discharger's compliance with such order. The city shall reinstate the wastewater treatment service and terminate judicial proceedings pending proof by the discharger of the elimination of the noncomplying discharge or conditions creating the threat of imminent or substantial danger as set forth above.

2. *Revocation of treatment service*. The city may seek to terminate the wastewater treatment service to any discharger which fails to:

    a. Factually report the wastewater constituents and characteristics of its discharge;

    b. Report significant changes in wastewater constituents or characteristics;

    c. Refuses reasonable access to the discharger's premises by representative of the for the purpose of inspection or monitoring; or

    d. Violates the conditions of this chapter, or any final judicial order entered with respect thereto.

3. *Notification of violation; administrative adjustment*. Whenever the city finds that any discharger has engaged in conduct which justifies

termination of a wastewater treatment service, the city shall serve notice either personally or by certified or registered mail, return receipt requested, stating the nature of the alleged violation. Within 30 days of the receipt of the notice, the discharger shall respond personally and in writing to the city, advising of the discharger's position with respect to the allegations. Thereafter, the parties shall meet to ascertain the veracity of the allegations and where necessary, establish a plan for the satisfactory correction thereof.

4. *Show cause hearing*. Where the violation of subsection I.2 of this section is not corrected by timely compliance by means of administrative adjustment, the city may order any discharger which causes or allows conduct prohibited by subsection I.2 of this section, to show cause before the city or its duly authorized representative, why the proposed service termination action should not be taken. A written notice shall be served on the discharger by personal service, certified or registered, return receipt requested, specifying the time and place of a hearing to be held by the city or the city's designee, as to why the proposed enforcement action should not be taken. The notice of hearing shall be served no less than ten days before the hearing. Service may be made on any agent, officer, or authorized representative of a discharger. The proceedings at the hearing shall be considered by the city which shall then enter appropriate orders with respect to the alleged improper activities of the discharger. Appeal of such orders may be taken by the discharger in accordance with applicable local or state law.

5. *Judicial proceedings*. Following the entry of any order by the city with respect to the conduct of a discharger contrary to the provisions of this chapter, the city attorney may, following the authorization of such action by the city, commence an action for appropriate legal and/or relief in the appropriate court.

6. *Right of appeal*.

    a. Any discharger or any interested party shall have the right to request in writing an interpretation or ruling by the city on any matter covered by this chapter and shall be entitled to a prompt written reply.

    b. In the event that such inquiry is by a discharger and deals with matters of performance or compliance with this chapter for which enforcement activity relating to an alleged violation is the subject, receipt of a discharger's request shall stay all enforcement proceedings pending receipt of the aforesaid written reply. Appeal of any final judicial order entered pursuant to this chapter may be taken in accordance with local and state law.

7. *Falsifying information*. Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this section or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall, upon conviction, by guilty of a Class B misdemeanor and subject to the penalty provisions provided in PCC 1-4-1.

J. *Recovery of costs*. Any discharger violating any of the provisions of this chapter, or who discharges or causes a discharge producing a deposit or obstruction or causes damage or impairs the city's wastewater disposal system, shall be liable to the city for any expenses, loss, or damage cause by such violation or discharge. The city shall bill the discharger for the costs incurred by the city for any testing, analysis, cleaning, repair, or replacement work caused by violation or discharge. Refusal to pay the assessed costs shall constitute a violation of this chapter, enforceable under the provisions of this chapter, or other applicable law.

(Code 1998, § 8-2-10(part); Ord. No. 88-1, 4-12-1989; Ord. No. 003-2008, 2-26-2008)

## 8-2-11 Access By Department

The city engineer and the city engineer's agents shall, at all ordinary hours, have free access to places supplied with sewer services from the city system for the purpose of examining the apparatus, ascertaining the sewer service being used and the manner of its use.

(Code 1998, § 8-2-11; Ord. No. 88-1, 4-12-1989; Ord. No. 003-2008, 2-26-2008)

## 8-2-12 Prohibited Uses And Regulations

A. *Injuring sewer; discharging oil*. It shall be unlawful for any person to injure, break or remove any part or portion of any sewer appliance or appurtenance, or to discharge into a sewer any mud or dirt or any inflammable gas, gasoline, oil or grease of any kind from automobiles, or any calcium carbide or residue therefrom, or any liquid or other material or substance which will evolve an inflammable gas when in contact with water, sewage or fire.

B. *Manhole covers*. It shall be unlawful for any person to open any sewer manhole, or in any way interfere with the same, without permission from the city engineer or the city engineer's agent.

C. *Disposal system abandonment*. When a dwelling served by an individual wastewater disposal system is connected to a public sewer, the existing system shall be abandoned and made safe and shall be disconnected from and bypassed with the building sewer.

D. *Stormwater*.

1. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, cooling water, or unpolluted industrial process waters to any sanitary sewer.
2. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designed as storm sewers or to a natural outlet approved by the city engineer. Industrial cooling water or unpolluted process waters may be discharged, on approval of the city engineer, to a storm sewer or natural outlet.

E. *Waters and wastes*. Except as herein provided, no person shall discharge or cause to be discharged any of the following described waters or wastes to any of the following described waters or wastes to any public sewer:

1. Any liquid or vapor having a temperature heated to a degree and in amounts which will inhibit biological activity in the publicly-owned treatment works resulting in interference or which would cause the temperature of the wastewater entering the treatment works to exceed 104 degrees Fahrenheit.
2. Any treatment or wastewater that contains solid or viscous substances in amounts which obstruct flow in sewers or interfere with the wastewater treatment system.
3. Any gasoline, benzine, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas or any other pollutant which might create a fire or explosion hazard in the sewer collection or treatment.
4. Any garbage that has not been properly shredded.
5. Any ashes, cinders, sand, mud, straw, shavings, metal, glass rags, feathers, tar, plastics, wood, paunch manure, or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works.
6. Any waters or wastes containing a toxic or poisonous substance in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create any hazard in the receiving waters of the sewage treatment plant, or to exceed the limitations set forth in a categorical pretreatment standard. A toxic pollutant shall include, but is not limited to, any pollutant identified pursuant to section 307(a) of the Federal Water Pollution Control Act.
7. Any waters or wastes containing suspended solids or other pollutants, including oxygen demanding pollutants, of such character and quantity that unusual attention or expense is required to handle such materials at

the sewage treatment plant.

8. Any noxious or malodorous gas or substance capable of creating a public nuisance.
9. Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the public works director in compliance with applicable state or federal regulations.
10. Any substance which will cause a violation in the discharge permitted or receiving water quality standards.

F. *Interceptors*.

1. *When required*. Grease, oil and sand interceptors shall be provided when, in the opinion of the city engineer, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be located as to be readily and easily accessible for cleaning and inspection.
2. *Maintenance*. Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at the owner's expense, in continuously efficient operation at all times.

G. *Oxygen requirement*. The admission into the public sewers of any waters or wastes having a five-day biochemical oxygen demand greater than 300 parts per million by weight or having an average daily flow greater than two percent of the average daily sewage flow of the city shall be subject to the review and approval of the city engineer.

H. *Modification of wastewater or effluent flow*. No discharger shall dilute the wastewater or increase the effluent flow as a means to keep BOD less than 300 parts per million, nor shall a discharger use dilution as a means of compliance with any other regulation of pollutants under this chapter.

I. *Dumping by waste haulers*. The dumping of waste into the city sewer system by waste haulers is prohibited. All such waste shall be disposed of in the city's, or the city's contracted entity's, sewer system at a location designated by the city's, or the city's contracted entity's, engineer and then only after a permit has been secured by the haulers.

(Code 1998, § 8-2-12; Ord. No. 88-1, 4-12-1989; Ord. No. 003-2008, 2-26-2008)

**8-2-13 Services Outside City**

A. *Petition*. Any person located outside the city limits who desires sewer service

may make application to the city council by petition containing:

1. A description of the proposed extension.
2. A map showing the location thereof.
3. An offer to pay the entire expense incurred by the city in providing such extension beyond the city limits and to advance such expense as shall be verified by the city engineer.
4. An acknowledgment that the applicant's request will be limited to one hookup for one home. No other connections will be permitted to be run off the approved hookup.
5. An acknowledgment that the hookup fee and the monthly charge for sewer service will be at the rate established by the city for sewer service outside the city limits.
6. A deposit equal to the minimum charge for two billing periods shall be presented to the city. It is agreed and understood that the city may apply the deposit as payment toward past due sewer service bills and on final settlement of the applicant's account, any unused balance of the deposit will be refunded to the applicant upon termination of the service.
7. A statement whereby the applicant agrees to adhere to all regulations contained within this chapter.
8. An acknowledgment that if the applicant fails to pay for the sewer within 30 days of the date due, the city recorder or the city manager shall give the customer notice in writing of the intent to physically discontinue sewer service to the premises unless the customer pays the bill in full within five days from the date of notice. If the sewer service is thereafter discontinued for failure to make payment of the sewer service charges, before the sewer services to the premises shall again be provided, all delinquent sewer charges must have been paid to the city treasurer or arrangements made for their payment that are satisfactory to the city.
9. The applicant hereby agrees to sign an application for sewer service and agrees to pay such sums as required by the city and be bound by the terms set forth in said application.

B. *Extensions may be master metered*. When an extension serving more than one house or user outside the city limits is connected to the city sewer system, the city engineer may require a master meter to be installed near the point where the connection is to be made to the city line. This installation will be at the expense of those persons being metered. Responsible parties must agree to pay all bills for sewer service through the meter at the applicable rates.

(Code 1998, § 8-2-13; Ord. No. 88-1, 4-12-1989; Ord. No. 003-2008, 2-26-2008)

## 8-2-14 Penalty

Any person or entity violating any of the provisions of this chapter shall be deemed guilty of a Class B misdemeanor and upon conviction thereof, shall be subject to penalty as provided in PCC 1-4-1. Each day of violation shall be deemed to be a separate offense.

(Code 1998, § 8-2-14; Ord. No. 88-1, 4-12-1989; Ord. No. 003-2008, 2-26-2008)

## 8-2-15 Service Line Repair

This applies to sewer service lines that are located on city property, more so the service line from the property owner's property line to the connection of the city's main line.

A. *Blockage occurs*. When blockage occurs in the service line between the property line and the city's main line, it is the responsibility of the property owner to have the service line cleaned and repaired. The property owner must report the problem to the city and obtain the necessary permits before beginning the repair.

    1. *Emergency repair*. Emergencies must be reported to the city immediately. It is the responsibility of the property owner to take action to prevent further damage and have the service line repaired.

B. *Submission of information and documentation*. If, after the service line is videotaped and/or excavated for repairs, it is determined the blockage may be due to faulty or improper installation, the property owner may submit the information and documentation to the city for review.

C. *Review board*. The sewer service line review board shall consist of the mayor or a designee, the city councilmember assigned to wastewater, the public works director, and the city engineer or a wastewater trade person.

D. *Action of review board*. Within two working days after the city receives the information and documentation, the review board will determine the cause of the blockage.

    1. The review board will present their findings and/or recommendations to the city council.

E. *Action of the city council*. After hearing the findings and/or recommendations of the review board, the city council shall determine the amount of city participation. The city may participate from zero percent to 100 percent, depending upon the cause.

(Code 1998, § 8-2-15; Ord. No. 012-2002, 9-10-2002; Ord. No. 003-2008, 2-26-2008)

## CHAPTER 8-3 BACKFLOW AND CROSS CONNECTIONS

8-3-1 General Purposes

8-3-2 (Reserved For Future Use)
8-3-3 Responsibilities
8-3-4 Requirements
8-3-5 Discontinuance Of Service
8-3-6 Penalty

## 8-3-1 General Purposes

The purposes of this chapter are as follows:

A. *Protection of water supply*. To protect the safe drinking water supply of the city from the possibility of contamination or pollution by requiring compliance or pollution by requiring compliance with state and local plumbing codes, health regulations, OSHA and other applicable industry standards for water system safety within the consumer's internal distribution system or private water system. Compliance with these minimum safety codes will be considered reasonable vigilance for prevention of contaminants or pollutants which could backflow into the public drinking water systems.

B. *Elimination or control of cross connections*. To promote reasonable elimination or control of cross connections in the plumbing fixtures and industrial piping system of the consumer, as required by state and local plumbing codes, health regulations, OSHA and other applicable industry standards to ensure water system safety.

C. *Administration of backflow prevention*. To provide for the administration of a continuing program of backflow prevention which will systematically and effectively prevent the contamination or pollution of all drinking water systems.

(Code 1998, § 8-3-1; Ord. No. 14-300, 1-23-1991)

## 8-3-2 (Reserved For Future Use)

## 8-3-3 Responsibilities

A. *City and water system*.

1. The city shall be responsible for the protection of the drinking water distribution system from foreseeable conditions leading to the possible contamination or pollution of the drinking water system due to the backflow contaminants or pollutants into the drinking water supply.

2. Drinking water system surveys or inspections of the consumer's water distribution system shall be conducted or caused to be conducted by individuals deemed qualified by and representing the city. Survey records shall indicate compliance with the aforementioned health and safety standards. All such records will be maintained by the city.

3. The city shall notify in writing, all consumers of the need for the periodic system survey to ensure compliance with existing applicable minimum health and safety standards.
4. Selection of an approved backflow prevention assembly for containment control required at the service entrance shall be determined from the results of the system survey.

B. *Consumer*.

1. To comply with this chapter as a term and condition of supply and consumer's acceptance of service is admittance of the consumer's awareness.
2. It shall be the responsibility of the customer or consumer to purchase, install, test and maintain any backflow prevention device or assembly required to comply with this chapter.

C. *Building inspector*.

1. The building inspector's responsibility to enforce the applicable sections of the plumbing code begins at the point of service (downstream or consumer side of the meter) and continues throughout the developed length of the consumer's water system.
2. The building inspector will review all plans to ensure that unprotected cross connections are not an integral part of the consumer's water system. If a cross connection cannot be eliminated, it must be protected by the installation of an air gap or an approved backflow prevention device or assembly in accordance with the state plumbing code.
3. Water vacating the drinking water supply must do so by an approved air gap or approved mechanical backflow prevention assembly, properly installed and in accordance with the state plumbing code.

D. *Technician, surveyor or repair person*.

1. Whether employed by the consumer or a utility to survey, test, repair, or maintain backflow prevention assemblies, the certified backflow technicians, surveyors or repair persons will have the following responsibilities:
    a. Ensuring acceptable testing equipment and procedures are used for testing, repairing or overhauling backflow prevention assemblies.
    b. Make reports of such testing and/or repair to the consumer, water purveyor, and the bureau of drinking water/sanitation within the

time frames prescribed by the bureau of drinking water/sanitation.

c. The reports shall include the list of materials or replacement parts used.

d. Ensuring replacement parts are equal in quality to parts originally supplied by the manufacturer of the assembly being repaired.

e. Not changing the design, material or operational characteristics of the assembly during testing, repair or maintenance.

2. In the case of a consumer requiring a commercially available technician, any certified technician is authorized to make the test and report the results of that test to the consumer, water purveyor and the bureau division of drinking water/sanitation. If such a commercially tested assembly is in need of repair, a licensed plumber shall make the actual repair.

(Code 1998, § 8-3-3; Ord. No. 14-300, 1-23-1991)

**8-3-4 Requirements**

A. *Protection of water supply*. No water service connection to any premises shall be installed or maintained by the public water purveyor unless the water supply is protected as required by state laws, regulations, codes, and this chapter. Service of water to a consumer found to be in violation of this chapter shall be discontinued by the water purveyor after due process of written notification of violation and an appropriate time suspense for voluntary compliance, if:

1. A backflow prevention assembly required by this chapter for control of backflow and cross connections is not installed, tested, and maintained;

2. If it is found that a backflow prevention assembly has been removed or bypassed;

3. If an unprotected cross connection exists on the premises; or

4. If the periodic system survey has not been conducted.

Service will not be restored until such conditions or defects are corrected.

B. *Inspection of customer's system*. The customer's system shall be open for inspection at all reasonable times to authorized representatives of the water purveyor to determine whether cross connections or other structural or sanitary hazards, including violation of this chapter, exist and to audit the results of the required survey (PCC 8-3-3A.2).

C. *Installation of approved prevention assembly*. Whenever the public water purveyor deems a service connection's water usage contributes a sufficient

hazard to the water supply, an approved backflow prevention assembly shall be installed on the service line of the identified consumer's water system, at or near the property line, or immediately inside the building being served; but, in all cases, before the first branch line leading off the service line.

D. *Type of protective assembly*. The type of protective assembly required under subsection C of this section, shall depend upon the degree of hazard which exists at the point of cross connection (whether direct or indirect), applicable local and state requirements and/or determinations resulting from the required survey.

E. *Previously approved assemblies*. All presently install backflow prevention assemblies which do not meet the requirements of this section but were approved assemblies for the purposes described herein at the time of installation and which have been properly maintained shall, except for the inspection and maintenance requirements under subsection F of this section, be excluded from the requirements of these rules so long as the water purveyor is assured that they will satisfactorily protect the public water system. Whenever the existing assembly is moved from the present location, or requires more than minimum maintenance, or when the water purveyor finds that the operation or maintenance of this assembly constitutes a hazard to health, the unit shall be replaced by an approved backflow prevention assembly meeting the local and state requirements.

F. *Inspection and maintenance requirements*. It shall be the responsibility of the consumer at any premises where backflow prevention assemblies are installed to have certified surveys or inspections, and operational tests made at least once per year at the consumer's expense. In those instances where the public water purveyor deems the hazard to be great, the purveyor may require certified surveys or inspections and test at a more frequent interval. It shall be the duty of the public water purveyor to see that these tests are made according to the standards set forth by the state department of health, bureau of drinking water/sanitation.

G. *Testing backflow prevention assemblies*. All backflow prevention assemblies shall be tested within ten working days of initial installation.

H. *Safety hazards*. No backflow prevention assembly shall be installed so as to create a safety hazard. Example: Installed over any electrical panel, steam pipes, boilers, pits, or above ceiling level.

(Code 1998, § 8-3-4; Ord. No. 14-300, 1-23-1991)

## 8-3-5 Discontinuance Of Service

A. *Authority*. If violations of this chapter exist or if there has not been any corrective action by the consumer within ten days of the written notification of deficiencies noted within the survey, then the public water purveyor shall deny or immediately

discontinue service to the premises by providing a physical break in the service line until the customer has corrected the conditions in conformance with the state and city statutes relating to plumbing, safe drinking water supplies and the regulations adopted pursuant thereto.

B. *Emergency*. If an emergency situation develops or is found to exist which in the opinion of the public water purveyor requires the immediate discontinuation of water service and/or an immediate physical break in the service line before written notice can be given, then such immediate action is authorized and such prior notice as can be given, if any, shall be given and written notice shall thereafter be given to the consumer and other appropriate steps taken as soon as is practicable.

(Code 1998, § 8-3-5; Ord. No. 14-300, 1-23-1991)

### 8-3-6 Penalty

Any person violating, allowing or causing the violation of the provisions of this chapter shall be guilty of a Class B misdemeanor, subject to the penalty provisions as provided in PCC 1-4-1, and such person shall be deemed to be guilty of a separate offense for each and every day, or portion thereof, during which any violation of this chapter is committed, allowed or permitted to continue by such person.

(Code 1998, § 8-3-6; Ord. No. 14-300, 1-23-1991)

## CHAPTER 8-4 STORMWATER SYSTEM USE AND SERVICE

8-4-1 Stormwater Department Created
8-4-2 Purpose
8-4-3 (Reserved For Future Use)
8-4-4 Participation In Service Required
8-4-5 Fees
8-4-6 Statement Of Charges; Delinquency
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8-4-10 Stormwater Service Lines And Associated Appurtenance
8-4-11 Stormwater Lines And System Extended
8-4-12 Access By Department
8-4-13 Excessive Or Incorrect Use Of System
8-4-14 Damages
8-4-15 Service Outside City
8-4-16 Nonliability For Damages

### 8-4-1 Stormwater Department Created

The stormwater department of the city is hereby created and established as an

enterprise fund. It shall administer the operation and maintenance of the stormwater system of the city.

(Code 1998, § 8-4-1; Ord. No. 013-2006, 11-14-2006)

## 8-4-2 Purpose

The purpose of this chapter, in compliance with state and federal mandates, is to protect the health, safety and welfare of the city and its inhabitants by improving the city's stormwater system, managing and controlling stormwater runoff, protecting property, preventing polluted waters from entering the city's water supply and other receiving waters, and establishing a viable and fair method of financing the construction operation and maintenance of the stormwater system.

(Code 1998, § 8-4-2; Ord. No. 013-2006, 11-14-2006)

## 8-4-3 (Reserved For Future Use)

## 8-4-4 Participation In Service Required

Stormwater runoff carries concentrations of oil, grease, nutrients, chemicals, heavy metals, toxic material and other undesirable material that may jeopardize the integrity of groundwaters and receiving waters, including the city's culinary water supply. All developed parcels in the city contribute to the need for the stormwater system. All developed parcels in the city make use of or benefit from the city's operation and maintenance of the stormwater system and shall be required to participate in this program.

A. *Exceptions*. Property which is owned by the city shall be exempt from the associated stormwater fees.

B. *Property served outside city limits*. All properties outside the city limits that receive water or sewer service from the city, shall be required to participate in this program. Billing will be charged and billed in accordance with the provisions of this chapter in regard to the nature of the property use, and at monthly rate of charges and billings established by the city for services outside the city limits.

(Code 1998, § 8-4-4; Ord. No. 013-2006, 11-14-2006)

## 8-4-5 Fees

A. *Stormwater utility*. A stormwater utility is an equitable and efficient method of managing stormwater in the city and ensuring that each developed parcel in the city pays its fair share of the amount that the property contributes to, benefits from, and otherwise uses the stormwater system.

B. *Stormwater utility fee*. A stormwater utility fee offers necessary financial management options that will assist the city to improve stormwater services, therefore, a stormwater utility fee system is hereby created and established as part of the stormwater department. It will be utilized in the establishment and setting of fees, rates, schedules and billing.

    1. The rates, penalty fee for delinquency in payment, and other charges incidental to connection and services from the city stormwater system shall be fixed from time to time by resolution enacted by the city council.

    2. The city council may from time to time promulgate rules for levying, billing, guaranteeing and collecting charges for stormwater system services and all other rules necessary for the management and control of the stormwater system.

    3. Property with a single water meter which has both a dwelling unit and a commercial business on the same property shall be charged at the higher commercial rate.

    4. Rates for services furnished shall be uniform with respect to each class or classes of service established or that may hereafter be established.

        a. The city hereby establishes a seven-class rate structure. A flat rate will be charged each class in the amount established by resolution.

C. *Special rates*. The city council may from time to time fix by agreement or resolution special rates and conditions for users making use of the stormwater system under exceptional circumstances, upon such terms and conditions as they may deem proper.

D. *Exemptions, surcharges, and credits*. The city council may establish exemptions, surcharges, and credits to the stormwater utility fee by resolution.

E. *Administrative policies*. The city staff may adopt policies, consistent with this chapter and any ordinances and/or resolutions adopted by the city council, to assist in the application, administration and interpretation of this chapter and any ordinance and/or resolution related to the stormwater system.

F. *Complaints; corrections*. The city council is hereby constituted as a board of equalization of stormwater sewer rates to hear complaints and make corrections of any assessments deemed to be illegal, unequal or unjust. They may, if they see fit, rebate all or any part of the stormwater bill of any indigent person.

G. *Appeal to the board of equalization*. The appeal shall be in writing, shall state any facts supporting the appeal, and shall be filed with the city recorder within ten calendar days of the decision, action, or bill being appealed.

    1. *Hearing and notice*. The board of equalization shall hold a hearing within

30 calendar days from the receipt of the appeal. The city shall provide written notice of the hearing date to the applicant a minimum of ten calendar days prior to the hearing date.

2. *Notice of decision*. The board of equalization shall provide a written notice of decision no later than ten working days after the hearing.

(Code 1998, § 8-4-5; Ord. No. 013-2006, 11-14-2006)

**8-4-6 Statement Of Charges; Delinquency**

A. *Statement*. The stormwater utility fee shall be included on the city's regular monthly utility billing. The city shall furnish to each user, or mail to, or leave at the user's place of residence or usual place of business, a written or printed statement stating thereon the amount of stormwater service charges assessed against the user once each month or at such other regular interval as the city council shall direct. The statement shall specify the amount of the bill for the stormwater service and the place of payment and date due.

B. *Failure to pay*. If any person fails to pay the stormwater charges within 30 days of the due date, the city shall mail the customer notice in writing of intent to disconnect the water service to the customer unless the customer pays the bill in full within seven days from the date of the notice.

C. *Payment of delinquent charges*. If the water service is thereafter discontinued for failure to make stormwater utility charges, then before the water service to the premises shall again be provided, all delinquent stormwater sewer charges must have been paid to the city or arrangements made for their payment in a manner satisfactory to the city.

D. *Additional charges*. In the event water is turned off for nonpayment of stormwater charges, then before the water service to the premises shall again be provided, the customer shall pay, in addition to all delinquent charges, such extra charge for turning the water on and off as the city council may have established by resolution or ordinance. Until such resolution has been adopted, there shall be added an extra charge in the amount established by resolution for turning on the water. Furthermore, in addition to such payments and penalties, a delinquent customer may be required to make and file a new application and deposit if the previous deposit has theretofore been applied to the payment of delinquent bills.

E. *Collection enforcement*. The city is hereby authorized and empowered to take all action necessary to enforce collection, including, but not limited to, the commencement of legal proceedings in a court of proper jurisdiction seeking judgment for all of the amount of the delinquent fees and services charges and all costs of collection, including court costs and reasonable attorney fees.

(Code 1998, § 8-4-6; Ord. No. 013-2006, 11-14-2006)

**8-4-7 Discontinuance Of Service**

Stormwater sewer service cannot be discontinued.

(Code 1998, § 8-4-7; Ord. No. 013-2006, 11-14-2006)

**8-4-8 Use Without Payment Prohibited**

It shall be unlawful for any person by himself or that person's family, servants, or agents to utilize the city stormwater system without paying therefor, as herein provided or, without authority to use or attach to the city stormwater system, unless it is done pursuant to proper application, agreement or resolution.

(Code 1998, § 8-4-8; Ord. No. 013-2006, 11-14-2006)

**8-4-9 Installation And Connection To The Stormwater System**

A. *Permit required*. It shall be unlawful for any person to lay, repair, alter or connect any line to the city stormwater system without first having received a construction permit from the office of the city recorder or from the public works director.

B. *Application*. Applications for permits to make water connections or other alteration of for laying or repairing lines connected directly or indirectly to the city stormwater system must be made in writing by the owner of the premises or the owner's authorized agent who shall describe the nature or the work to be done for which the application is made.

C. *Determination of approval*. The application shall be granted if the public works director determines that:

    1. The connection, repair, alteration or installation will cause no damage to the existing system, and construction of the project conforms to the ordnances, regulations, specifications and standards required by the city that pertains to the requested construction. And that it will not be prejudicial to the interests of persons whom property has been or may thereafter be connected to the stormwater system.

    2. The connection conforms to the ordinances, regulations, specifications and standards of materials required by the city.

D. *Line and grade designation*. All connections, alterations or installations shall be to the line and grade as shown on the approved construction drawings or as may be designated by the public works director.

E. *Fees*. Fees for permits or for inspection services shall be of such amounts as the city council shall, from time to time, determine by resolution.

(Code 1977, §§ 14-137, 14-138; Code 1998, § 8-4-9; Ord. No. 013-2006, 11-14-2006)

## 8-4-10 Stormwater Service Lines And Associated Appurtenance

A. *Good repair*. All users of stormwater services shall keep their service lines and connections and other apparatus, clean and in good repair and protected at their own expense. No person, except under the direction of the public works director, shall be allowed to dig into the street for the purpose of laying, removing or repairing any service line or appurtenance.

B. *Quality of service lines*. All service lines and other items used in conjunction with the stormwater services of the city shall be of such material, quality, and specifications as the city council may from time to time by resolution provide and shall be installed as may be specified by regulations relating to the stormwater department. All work, alterations, or extensions affecting the stormwater system, shall be subject to the acceptance of the public works director, and no connections to any part of the stormwater system shall be made without first obtaining a permit therefor from the city recorder.

(Code 1977, § 14-127A; Code 1998, § 8-4-10; Ord. No. 013-2006, 11-14-2006)

## 8-4-11 Stormwater Lines And System Extended

A. *Petition to city council*. Any person, including any subdivider, who desires to have the stormwater system extended within the city, and is willing to advance the whole expense of such extension and receive the return of an agreed portion thereof, as hereinafter provided, may make application to the city council by petition. The petition shall contain a proposed extension, accompanied by a map showing the location of the proposed extension, together with an offer to advance the whole expense thereof, which cost shall be verified by the public works director. The city council may grant or deny the petition as in its discretion seems best for the welfare of existing stormwater users in the city.

B. *Cost determined*. Upon the receipt of such petition and map and before the petition is granted, the city council shall obtain from the public works director a certified statement showing the whole cost or expense of making such extension.

C. *Amount deposited*. If the city council grants the petition, the amount of the cost of making the extension, as certified by the public works director, shall be deposited with the city recorder before any work shall be done on such extension. The deposit shall be made within 30 days, or such other time as the city council shall indicate, after the granting thereof.

D. *Return of deposit*. At the time the city council decides whether or not to grant petition for an extension, it shall also decide whether or not any portion of the costs is to be refunded and the manner and circumstances under which such

refund shall be made or credited to the applicant, the applicant's successors or representatives. Such determination shall be duly recorded in writing and a copy thereof furnished to the applicant.

E. *Forfeiture*. In the event any deposit remains unclaimed for a period of five years after the depositor has discontinued stormwater service, the deposit may be forfeited and then transferred to the stormwater enterprise fund.

F. *Ownership of extension*. Any such extension shall be deemed the property of the city.

(Code 1977, §§ 14-143--14-147; Code 1998, § 8-4-11; Ord. No. 013-2006, 11-14-2006)

**8-4-12 Access By Department**

The public works director and the public works director's agents shall at all ordinary hours have free access to any place supplied with stormwater services from the city system, for the purpose of examining the stormwater system and ascertaining the service is being used as intended and maintenance is performed as required by the city.

(Code 1998, § 8-4-12; Ord. No. 013-2006, 11-14-2006)

**8-4-13 Excessive Or Incorrect Use Of System**

A. *Effect on city stormwater system*. It shall be unlawful for any person to drain simultaneously or to use such combinations of outlets as will, in the opinion of the city council, materially affect the design or discharge of water in the city stormwater system or any part thereof, and the city council may from time to time, by resolution, specify combinations or numbers of outlets which may have such effect.

B. *Order to discontinue*. The city council shall, after determining that such improper use exists, notify the affected stormwater user or the owner of the premises whereon such use occurs of such determination in writing, order such use discontinued and advise that such continued usage constitutes a violation of this chapter.

(Code 1977, § 14-133; Code 1998, § 8-4-13; Ord. No. 013-2006, 11-14-2006)

**8-4-14 Damages**

A. It shall be unlawful to injure, deface, or impair any part or appurtenance of the stormwater system, or to cast anything into any stormwater ponds belonging to the city stormwater system.

B. *Damage by customer*. All damages or injury to the lines, meters or other materials of the city on or near the customers premises caused by any act or

neglect of the customer shall, in the direction of the city, be repaired by and at the expense of the customer, and the customer shall pay all costs and expenses, including a reasonable attorney fee, which may arise or accrue to the city through its efforts to repair the damage to the lines, or to other equipment of the department or collect such costs from the customer or from those responsible.

(Code 1998, § 8-4-14; Ord. No. 013-2006, 11-14-2006)

**8-4-15 Service Outside City**

A. *Scope*. The city may furnish stormwater service from its stormwater system to persons outside the city in accordance with the provisions of this chapter.

B. *Petition for service*. Any person located outside the city limits who desires to be supplied with stormwater services from the city stormwater system and is willing to pay in advance the whole expense of extending the stormwater system to that person's property, including the cost of extending any stormwater main beyond its present location, may make application to the city council by petition containing:

1. A description of the proposed extension.
2. A map showing the location thereof.
3. An offer to pay the whole expense incurred by the city in providing such extension and to advance such expense as shall be verified to by the public works director. The city council and the person seeking such extension may enter into an agreement providing in detail the terms under which the extension may be utilized by others in the future and the terms under which all or any portion of the cost of installing such extension may be refunded.
4. An acknowledgment that the city in granting the petition, need supply only such stormwater services to the petitioner which from time to time the city council deems is not beyond the requirements of stormwater users within the city limits, and that such extension shall be the property of and subject to the control of the city.

C. *Costs determined*. Upon receipt of such petition and map and before the petition is granted, the city council shall determine what portion, if any, of the extension of the city stormwater system to the city limits the city shall construct and shall obtain from the public works director a verified statement showing the whole cost and expense of making such extension. Such costs and expenses shall include administrative and supervisory expenditures of the stormwater department, which shall in no event be deemed to be less than ten percent of the cost of materials and labor.

(Code 1977, §§ 14-151, 14-152, 14-154; Code 1998, § 8-4-15(1); Ord. No. 013-2006, 11-

14-2006)

### 8-4-16 Nonliability For Damages

The city shall not be held liable for any damage to a stormwater service user be reason of stoppage or interruption of the user's stormwater service caused by fires, accidents to the stormwater system, or which occurs as the result of maintenance and extension operations, or from any other unavoidable cause. This section shall not be construed to extend the liability of the city beyond that provided in the Governmental Immunity Act of Utah (U.C.A. 1953, § 63G-7-101 et seq.).

(Code 1977, § 14-131; Code 1998, § 8-4-15(2); Ord. No. 013-2006, 11-14-2006)

## CHAPTER 8-5 SECONDARY WATER SYSTEM REGULATIONS


8-5-1 Intent And Purpose
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8-5-12 Prohibited Acts
8-5-13 Maintenance Of Facilities And Equipment
8-5-14 Use Of Water
8-5-15 Safety Considerations
8-5-16 Demands On The System
8-5-17 Penalty For Violation


### 8-5-1 Intent And Purpose

A. The intent of this chapter is to establish a municipal secondary irrigation water system in the city.

B. This secondary water system, where applicable, will provide secondary water to city residents who decide to opt into the system.

C. The intent of this chapter is to establish the legal framework by which residents, both current and future, may be provided an alternative to treated culinary water for irrigation uses.

D. Where applicable, the purpose of this chapter is to make secondary irrigation water available to properties that are serviced by the city's culinary water system.

E. It is the express intent of the city council by passage of the ordinance from which this chapter is derived to encourage the use of secondary water for outdoor uses instead of treated culinary water which is primarily for indoor use.

F. The intent is to reduce the demand on the culinary system, where applicable, by providing untreated secondary water for irrigation purposes.

G. The use of culinary water for outdoor watering of lawns and gardens is discouraged when irrigation water is available from the secondary water system.

H. The intent is that all secondary water shall be put to beneficial use upon the property on which the secondary water is assigned under this chapter.

I. The secondary water system is intended as a pressurized on-demand system. It should not require taking turns on a schedule.

J. The city will make every effort to encourage and incentivize residents to make connections to and use secondary water instead of culinary water for irrigation purposes.

K. It is the intent of the city to prepare and adopt a secondary water master plan which shall, among other things, identify areas which will likely be suitable for expansion of the secondary water system.

L. Areas under consideration for connection to the secondary water system are designated in appendix A to this chapter, Secondary Water System Designated Service Areas.

M. This section is intended to accommodate additional service areas as the city develops. It is the intent that appendix A to this chapter, Secondary Water System Designated Service Areas, will be updated with new areas of the city as needed or as requested.

(Code 1998, § 8-5-1; Ord. No. 2019-008, att.(8-5-1), 3-26-2019; Ord. No. 2019-017, att. (8-5-1), 10-8-2019)

## 8-5-2 Secondary Water Enterprise Fund

A. The city hereby establishes the secondary water enterprise fund.

B. The secondary water system shall be funded by the secondary water enterprise fund.

C. All connection fees and monthly user charges collected under the provisions of this chapter shall be used to meet the operation and maintenance cost of delivery of secondary water; debt service on obligations appertaining to the construction of any secondary water system created; the payment of actual construction costs associated with the completion of such system; and such other allocations as the city council may by resolution provide.

D. Connection fees, user charges and other user assessments shall be set forth in appendix B to this chapter, Secondary Water System Utility Rates.

(Code 1998, § 8-5-2; Ord. No. 2019-008, att.(8-5-2), 3-26-2019; Ord. No. 2019-017, att. (8-5-2), 10-8-2019)

**8-5-3 (Reserved For Future Use)**

**8-5-4 Public Works Director**

A. The public works director may designate other city employees to assume all or part of the director duties herein.

B. The public works director shall be the supervisor of the secondary water system.

C. The public works director shall manage and supervise the department pursuant to the provisions of this chapter and pursuant to rules, policies, and regulations adopted by the city council from time to time prescribing the public works director's powers and duties.

(Code 1998, § 8-5-4; Ord. No. 2019-008, att.(8-5-4), 3-26-2019; Ord. No. 2019-017, att. (8-5-4), 10-8-2019)

**8-5-5 Secondary Water Stock Designated Representative**

A. The city hereby establishes the position of secondary water stock designated representative (designated representative).

B. The designated representative shall be appointed by resolution of the city council, upon recommendation from the mayor.

C. The designated representative shall represent the city at stockholder (shareholder) meetings held by irrigation/water companies in which the city holds water stock.

    1. The designated representative is authorized to vote on behalf of the city.

    2. The designated representative, if elected by the shareholders, may serve as a director on an irrigation/water company board of directors.

    3. The city manager is the representative of the city for the Spring Creek Water Company.

(Code 1998, § 8-5-5; Ord. No. 2019-017, att.(8-5-5), 10-8-2019)

**8-5-6 Secondary Water Master Plan**

A. The city shall prepare and adopt a secondary water master plan.

B. Adoption of the ordinance from which this chapter is derived is not contingent upon the completion of a secondary water master plan.

C. The secondary water master plan shall identify areas of existing development which may be suitably retrofitted to access the secondary water system.

D. The secondary water master plan shall identify undeveloped areas which may be suitable for a secondary water system.

E. The secondary water master plan shall further identify and estimate anticipated costs, current and future, associated with design, construction and maintenance of the secondary water system.

F. The above items are not an exhaustive list of the information to be included in the secondary water master plan. The secondary water master plan may include any information, recommendation or policy that the city determines necessary and proper to create, construct, and maintain a secondary water system.

G. Areas that the city identifies as suitable for construction of a secondary water system (through development agreement or other similar agreement) may begin construction of their portion of the secondary water system prior to adoption of the secondary water master plan.

(Code 1998, § 8-5-6; Ord. No. 2019-008, att.(8-5-5), 3-26-2019; Ord. No. 2019-017, att. (8-5-6), 10-8-2019)

## 8-5-7 Enforcement

A. The public works director is authorized and directed to enforce the provisions of this chapter and all other rules and regulations adopted by the city council pertaining to the management and operation of the secondary water system.

B. *Right of entry*. The public works director, duly appointed city employee or city official, as directed by the governing body, shall, at all ordinary hours and reasonable times, have free access to any premises supplied with service from the secondary water system for the purpose of examining system apparatus, ascertaining the amount and manner of use of water provided by the secondary water system, determining propriety of water use, verifying system functionality, repairing faulty equipment, and performing any other duty prescribed by this chapter and all other rules and regulations adopted by the city council. Such access shall not be deemed trespass.

C. *Refusal of entry*. If, upon presenting proper identification credentials and requesting entry, the public works director or other authorized person is denied access to the premises for the purposes stated in PCC 8-5-6B, the public works director shall have recourse to every remedy provided by law to secure entry. The public works director may, further, interrupt secondary water service as provided

by this chapter until such time as appropriate remedial measures may be taken.

D. *Stop work orders*. Whenever a person, in a manner contrary to the provisions of this chapter, (1) repairs, maintains, or otherwise works on the secondary water system, or (2) uses water from the secondary water system; the public works director may order the repair, maintenance, extension work, or usage stopped by notice in writing served on any person engaged in, directing, or causing such work or use. Any person thus served shall stop such work or usage until such time as (a) the city council renders a decision as to the continuation of the work or usage, or (b) another appropriate remedy is applied, conforming to the provisions of this chapter. Notwithstanding this subsection, however, upon discovery of any use or connection which may constitute a hazard to safety or health (see PCC 8-5-11), the person discovering such shall immediately notify the director and this subsection and PCC 8-5-6 shall take immediate effect.

E. *Cooperation of other officials and employees*. The public works director may request and shall receive, so far as is required in the discharge of the public works director's duties, the assistance and cooperation of other officials and employees of the city.

(Code 1998, § 8-5-7; Ord. No. 2019-008, att.(8-5-6), 3-26-2019; Ord. No. 2019-017, att. (8-5-7), 10-8-2019)

## 8-5-8 Emergency Service Interruption

The public works director, or any other person authorized to act in the public works director's stead, shall have the authority to interrupt secondary water system service for good cause, which shall include, but not be limited to, water service conditions specified in PCC 8-5-11. Whenever possible, the public works director shall, prior to taking such action, notify the owner or occupant of premises affected by the decision to disconnect or interrupt service prior to such action being taken.

(Code 1998, § 8-5-8; Ord. No. 2019-008, att.(8-5-7), 3-26-2019; Ord. No. 2019-017, att. (8-5-8), 10-8-2019)

## 8-5-9 Liability And Damages

A. *No personal liability*. Neither the public works director nor any city employee acting without malice and in good faith in the discharge of the duties set forth herein, shall thereby render themselves personally liable for any damage to persons or property resulting from any act or omission in the discharge of those duties.

1. *Defense*. Any suit brought against the public works director or any city employee because of an act or omission performed in the discharge or enforcement of any provision of this chapter shall be defended by legal counsel provided by the city, pursuant to the provisions of the

Governmental Immunity Act of Utah (U.C.A. 1953, § 63G-7-101 et seq.).

2. *Other liabilities*. No provision of this chapter shall be construed to relieve from or lessen the responsibility of any user of responsibility for any damages to persons or property caused by defects in such user's irrigation or sprinkling system, equipment, or devices. Nor shall this chapter be construed to hold the public works director liable by reason of inspections authorized or required by this chapter or approvals issued hereunder.

B. *Damages*.

1. The user shall pay all costs and expenses, including attorney's fees, for the repair of any and all damages or injury to lines, apertures, or other system facilities or equipment on or near the user's premises caused by any act of the user, or which may arise through city efforts to repair the damage caused by the user.
2. The city shall not be liable for any damage to any user by stoppage or interruption of the user's secondary water service caused by fire, scarcity of water, accidental damage to the secondary water system as a result of maintenance and extension operations, or from any other unavoidable cause.

(Code 1998, § 8-5-9; Ord. No. 2019-008, att.(8-5-8), 3-26-2019; Ord. No. 2019-017, att. (8-5-9), 10-8-2019)

**8-5-10 Connection To The System**

A. Residents will be notified in writing when the secondary water system is available to service their parcel.

B. Where a secondary water system is available, and the parcel owner opts into the secondary water system within six months after being notified that the secondary water system is available to their parcel, the city shall bear the responsibility for installation of water meters for those residents with existing the city utility accounts.

C. Those property owners who fail to file an application to connect to the secondary water system within six months after being notified that the secondary water system is available to their parcel, will be responsible for the cost of the installation of water meters and associated connection fees.

D. Participation in the secondary water system is not currently required by city ordinance, but a person may connect to the secondary water system upon the following terms:

1. *Application for secondary water use and connection agreement*. A parcel owner seeking to connect to the secondary water system shall complete and submit an application, together with any requisite fees, for secondary water system use and pressurized system connection agreement.

2. *Connection*. If the city approves the application; the applicant shall submit construction plans to the public works director for approval. The applicant shall begin construction only after receiving a signed, written approval of the plans from the public works director. All construction in the city right-of-way shall be performed by a licensed and bonded contractor approved by the public works director. All costs of extending a water main and of connecting to the system shall be paid by the applicant.

3. *Connection limitation*. All service connections to the secondary water system shall be one inch in diameter. Normally, a single connection will be provided to each parcel serviced by the irrigation system.

4. *Service and shut-off valves*. The construction plans shall include a city service valve inside a service box at the point of connection between the secondary water system and the applicant's secondary irrigation water line. The plans shall also include an additional shut-off valve adjacent to the city service valve. It shall be unlawful for any user or nonuser to access the city service valve after the initial construction is completed.

5. *Inspection prior to approval*. The public works director shall ensure that each connection to the secondary water system has been inspected and approved before any new piping and connection is covered.

E. *Water use agreement*.

1. Upon completion of the connection to the secondary water system, the parcel owner or tenant shall submit a water use agreement: pressurized system, together with an owner acknowledgment and guarantee and any requisite fees. The owner acknowledgement and guarantee must be signed by the owner of the parcel and shall certify that the owner will pay all water service and associated fees if the owner's tenant fails to pay for the service.

2. Upon approval of the water use and connection agreement, the applicant may begin using water from the secondary water system.

3. Any time a parcel owner or tenant of a parcel changes, the new owner or tenant must submit a water use agreement, secondary water system, an owner guarantee, and any requisite fees.

F. *Period*. Approved water use agreements remain in effect for subsequent irrigation seasons unless disconnected by the city.

G. *Right of refusal*. The city reserves the right to reject any application for participation in the secondary water system if, in the opinion of the public works director, participation would:

1. Significantly increase operational costs;
2. Substantially impair water delivery to other users; or
3. Otherwise prove detrimental to the secondary water system.

H. *Fees*. Connection fees and service fees will be charged as set by city resolution and are listed under appendix B to this chapter, Secondary Water System Utility Rates.

I. *Disconnection and reconnection*.

1. *Disconnection*. Any person who desires to disconnect from the secondary water system must submit a written request to the public works director, together with any applicable fee. The disconnection shall take effect on the first workday of the month following city receipt of the request to disconnect. The public works director may disconnect a user's water service if the user's account is delinquent, if the user violates any provision of this chapter, or if a health or safety issue occurs.
2. *Reconnection*. Persons requesting reconnection must submit a new water use agreement, secondary water system agreement, and an owner guarantee, along with all applicable charges and fees. The reconnection will be approved if all applicable charges and fees have been paid, if all violations have been resolved, and if all health and safety issues have been resolved. If approved during the irrigation season, the reconnection will take effect within five days after approval. If approved between irrigation seasons, the reconnection will take effect at the beginning of the irrigation season.

J. It is unlawful for two or more parcels or service users to be supplied from the same metered service pipe, connection, riser or water outlet or discharge unless special permission for such combination usage has been granted by the public works director and the parcels served are owned by the same owner. In all such cases, a failure on the part of any one of the users to comply with this section shall warrant a withholding of a supply of secondary water through the service connections until compliance or payment has been made, and in any event, the parcel owner shall be primarily liable to the city for all secondary water services utilized on all such premises. Nothing herein shall be deemed to preclude the power of the city to require separate pipes or connections at a subsequent time.

K. *Periods of use*. The city council shall, in consultation with the public works director, determine the dates when water shall be available through the secondary water system, and when such service shall be terminated at the end of

the irrigation season. The public works director shall also coordinate water availability and usage with respective irrigation companies as outlined in PCC 8-5-13.

L. *New development*. (Piping requirements for the secondary water system in new development is covered in PCC title 11.)

M. *Retrofitting existing development*. (Specifics to be determined based on secondary water system feasibility study.)

(Code 1998, § 8-5-10; Ord. No. 2019-008, att.(8-5-9), 3-26-2019; Ord. No. 2019-017, att. (8-5-10), 10-8-2019)

**8-5-11 User Rates, Fees, And Charges**

A. *Fees*.

1. User rates, connection fees, inspection fees, disconnection fees, reconnection fees, delinquency fees, and any other charges incidental to secondary water system connection and services shall be fixed from time to time by city resolution. The city council may, from time to time, determine by resolution rules for levying, metering, billing, guaranteeing and collecting charges for secondary water system services, and all other rules necessary for the management and control of the secondary water system. Rates for the secondary water system service shall be uniform with respect to each class of service now or hereafter established.

2. With the exception of costs related to the installation of the secondary water meters, which shall be done by the city, the applicant shall bear the responsibility for, and all costs incurred in, connecting or extending service to the applicant's property. If piping for the secondary water service is installed in a new development, the developer shall install all piping and equipment with the exception of the city secondary water meter.

B. *Impact fees*. The city may, by ordinance, adopt an impact fee for connection to the secondary water system. Such fee shall be created in accordance with laws of the state regarding the adoption of impact fees.

C. *Nonuser assessment*.

1. In areas where the secondary water system is available, assessments shall be set, and may be adjusted from time to time by city resolution, for culinary water users who choose, for any reason, not to connect to the secondary water system.

2. Property owners who are able to, but choose not to, use the secondary water system, shall be assessed a nonuser fee for each peak summer-

use month. This fee shall be based upon the amount of culinary water used beyond the allotted monthly service baseline during the peak summer months (i.e., May, June, July, August, and September). This nonuser fee shall be set and may be adjusted from time to time by city resolution.

D. *Billing statements*. The city shall furnish secondary water system billing statements to each user and nonuser in accordance with PCC 8-1-4A.

(Code 1998, § 8-5-11; Ord. No. 2019-008, att.(8-5-10), 3-26-2019; Ord. No. 2019-017, att. (8-5-11), 10-8-2019)

**8-5-12 Prohibited Acts**

It shall be unlawful for any person, whether acting for themselves or as representative or agent for another:

A. To use or receive water from the secondary water system without paying as herein provided;

B. To open any pipe, line, connection, stopcock, valve, or other portion or fixture of the secondary water system, except pursuant to properly submitted and approved application or city directive;

C. To injure, deface, or impair any part or portion of the secondary water system;

D. To introduce any object or substance into the secondary water system or any portion thereof;

E. To use the secondary water system water for driving or propelling machinery of any kind whatsoever;

F. To use the secondary water system water for flood irrigation;

G. To allow open discharge of water from the secondary water system by any means using a connection no larger than one inch;

H. To fill or maintain water levels in stock watering tanks or troughs unless the inlet flow is restricted to ten gallons per minute or less, and it is fitted with a manual or automatic stop device that does not allow the container to overflow;

I. To redistribute water to unauthorized persons off the premises or to provide water to more than one parcel from the same city service valve;

J. To connect any part of the secondary system to any part of the city culinary water system, including by use of a swing connection, so as to create a potential cross connection whereby irrigation water could be introduced into any system that provides culinary water. In addition to the penalty provided by PCC 8-5-16, if any cross connection is discovered, secondary water service to the premises shall be

immediately disconnected; the incident shall be immediately reported to the public works director, and the public works director may physically remove the parcel's connection to the secondary water system. Service shall not be reconnected until the party responsible for the parcel corrects the problem, pays any applicable fines, and pays any established disconnection and reconnection fees. All associated costs and expense shall be paid by the parcel owner.

(Code 1998, § 8-5-12; Ord. No. 2019-008, att.(8-5-11), 3-26-2019; Ord. No. 2019-017, att. (8-5-12), 10-8-2019)

**8-5-13 Maintenance Of Facilities And Equipment**

A. Water users shall, at their own expense, keep private facilities, including any apparatus related to or used in application of water to their own property, in good repair and protected from the elements.

B. The city shall maintain the secondary water system up to and including the city service valve (i.e., to where a user's system connects to the secondary water system). It shall be unlawful for any user to allow irrigation water to run to waste as a result of faulty material or equipment.

C. No water user may enter, access, or excavate, or attempt to enter, access, or excavate, city streets, parking strips, sidewalks, or other public rights-of-way for the purpose of laying, removing, or repairing any service pipe or apparatus related to the secondary water system without an excavation permit from the city public works department.

(Code 1998, § 8-5-13; Ord. No. 2019-008, att.(8-5-12), 3-26-2019; Ord. No. 2019-017, att. (8-5-13), 10-8-2019)

**8-5-14 Use Of Water**

A. *Beneficial use*. All water shall be put to beneficial use upon the parcel on which the water is assigned under this chapter.

B. *Waste of water*. The concept of reasonable use implies that in order to not waste water, a user should make every effort to achieve the maximum benefit for the least amount used. Wasting water includes, but is not limited to, using more water than is reasonably necessary for irrigation purposes or permitting water to overflow or exit the parcel to which the water is assigned. If the public works director determines that a user is wasting water, the public works director may provide notice in writing to the user ordering the user to cease wasting water. If the user does not cease wasting water, the public works director may disconnect the user's water service or take other action allowed under this chapter, and the user may be penalized pursuant to PCC 8-5-16.

C. *Secondary irrigation water not for ponds or fish*. Water from the secondary water

system is meant for irrigation and shall not be applied to filling and maintaining ponds or fish habitats.

D. *Service time frame*. The public works director shall annually meet with a representative from each irrigation water company servicing the city to determine the upcoming year's anticipated usage and coordinate operation and scheduling of the secondary water system. At the same time, a policy shall be prepared outlining the availability of water through the secondary water system and how the city shall deal with emergencies and contingencies that may reasonably arise in any given watering year.

E. *Water meters*. Water meters may be installed at the city's discretion at irrigation system connections as the city council may require meters to establish rates based on water usage.

F. *Water shortages*. In times of water scarcity, as by proclamation by the mayor and city council, the public works director may limit the use of secondary water to such extent as may be necessary. It is unlawful for any person, that person's family, or agents to violate any proclamation made by the mayor and city council in pursuance hereof.

(Code 1998, § 8-5-14; Ord. No. 2019-008, att.(8-5-13), 3-26-2019; Ord. No. 2019-017, att. (8-5-14), 10-8-2019)

**8-5-15 Safety Considerations**

A. All exposed parts of the secondary water system, including pipes, connections, access points, taps, and spigots shall be labeled and painted red by the property owner so as to alert people that it is not a source of culinary water.

B. All taps, faucets, spigots, or any other system outlet that any person, including small children, may reasonably mistake for a source of culinary water must be clearly labeled (by both text and symbol) as unsuitable for drinking.

C. Handles must be removable to prevent access by small children.

(Code 1998, § 8-5-15; Ord. No. 2019-008, att.(8-5-14), 3-26-2019; Ord. No. 2019-017, att. (8-5-15), 10-8-2019)

**8-5-16 Demands On The System**

No person shall design, construct, or permit the installation of any sprinkler or other water delivery system on their property which creates a demand on the secondary water system in excess of the secondary water system's designed allowable flow. An owner of a system creating such an excessive demand shall make, at the owner's expense, all alterations necessary to bring the system into compliance with this section.

(Code 1998, § 8-5-16; Ord. No. 2019-008, att.(8-5-15), 3-26-2019; Ord. No. 2019-017, att. (8-5-16), 10-8-2019)

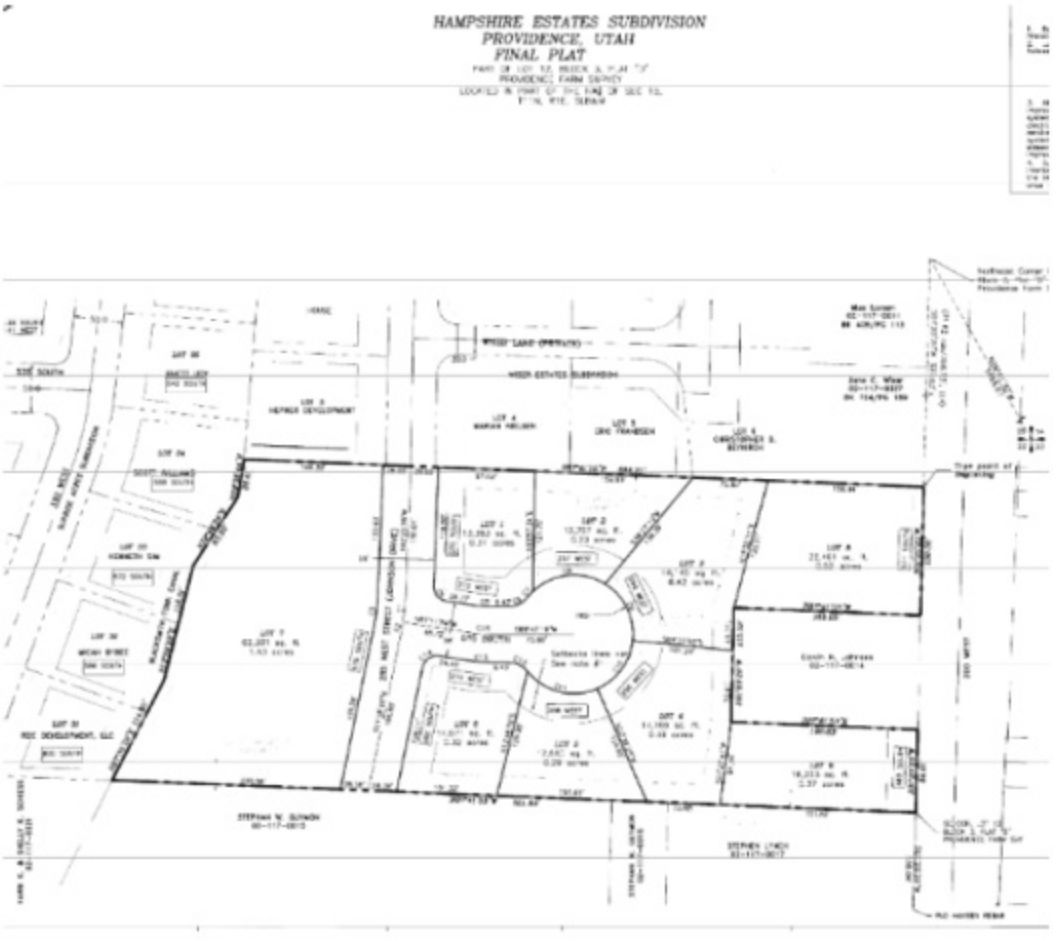
**8-5-17 Penalty For Violation**

Without altering or diminishing the effect of any other sanction, penalty, or consequence provided in this chapter, the violation of or failure to observe or comply with any provision of this chapter shall constitute an infraction. The severity of the offense may be such that the violation may be classified a Class C misdemeanor. Any person guilty of such a violation shall be subject to the penalty provisions set forth in PCC 1-4-1. Each day, or portion thereof, in or during which any violation of this chapter is committed, allowed, or permitted to continue shall constitute a separate offense.

(Code 1998, § 8-5-17; Ord. No. 2019-008, att.(8-5-16), 3-26-2019; Ord. No. 2019-017, att. (8-5-17), 10-8-2019)

APPENDIX A. SECONDARY WATER SYSTEM DESIGNATED SERVICE AREAS

Hampshire Park neighborhood.




(Code 1998, title 8, ch. 5, app. A; Ord. No. 2019-008, att.(app. A), 3-26-2019; Ord. No.

2019-017, att.(app. A), 10-8-2019)

APPENDIX B. SUGGESTED SECONDARY WATER SYSTEM UTILITY RATES

Actual rates will be approved by resolution of the city council.

Monthly base rate: 11.63 (includes 10,000 gallons per month).

| | |
|---|---|
| Rate per gallon 10,001 – 50,000 | 0.75/1,000 gallons |
| Rate per gallon 50,001 and up | 1.50/1,000 gallons |

(Code 1998, title 8, ch. 5, app. B; Ord. No. 2019-008, att.(app. B), 3-26-2019; Ord. No. 2019-017, att.(app. B), 10-8-2019)

**TITLE 9 BUILDING REGULATIONS**
CHAPTER 9-1 BUILDING CODE AND PERMIT REQUIREMENTS
CHAPTER 9-1A IMPACT FEES
CHAPTER 9-2 ELECTRICAL CODE
CHAPTER 9-3 PLUMBING CODE
CHAPTER 9-4 MECHANICAL AND FUEL GAS CODES
CHAPTER 9-5 (RESERVED FOR FUTURE USE)
CHAPTER 9-6 FIRE CODE
CHAPTER 9-7 RESIDENTIAL BUILDING CODE

## CHAPTER 9-1 BUILDING CODE AND PERMIT REQUIREMENTS

9-1-1 Building Code
9-1-2 Building Inspector
9-1-3 Zoning Compliance And Building Permit
9-1-4 Fee Schedule

**State law reference**—State Construction and Fire Codes Act, U.C.A. 1953, § 15A-1-101, et seq.

### 9-1-1 Building Code

A. *Purpose*. The purpose of this chapter is to provide minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the design, the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings or structures in the city and providing for issuance of permits and collection of fees thereof.

B. *Adopted*. Pursuant to U.C.A. 1953, title 58, ch. 56 (U.C.A. 1953, § 58-56-1 et seq.), Administrative Rule R156-56, and State Construction and Fire Codes Act Rules, the state through the state uniform building codes commission, has adopted statewide uniform technical construction codes, including amendments, and this municipal code, which shall be and is hereby adopted as the building code of the city, in the state, for the control of buildings and structures as herein provided; and each and all of the regulation, provisions, penalties, conditions and terms of said building code are here by referred to, adopted, and made a part hereof.

1. *Public availability*. Pursuant to U.C.A. 1953, § 10-3-711, the building code is available for use and inspection by the public in the office of the city recorder.

(Code 1998, § 9-1-1(part); Ord. No. 9-531, 2-28-1995, eff. 3-28-1995; Ord. No. 002-2009, 5-26-2009)

## 9-1-2 Building Inspector

A. *Created*. There is hereby created the position of building inspector.

B. *Powers*.

1. *Stop order*. The building inspector shall have the power to order all work stopped on construction, alteration or repairs of buildings in the city when such work is being done in violation of any provisions of any ordinance relating thereto, or in violation of PCC titles 10 and 11. Work shall not be resumed after the issuance of such order, except on the written permission of the building inspector, provided that if the stop order is an oral one, it shall be followed by a written stop order within one hour. Such written stop order may be served by any peace officer or other authorized person.

2. *Entry; inspection*. The building inspector shall have the power to enter into any building or the premises where the work of altering, repairing or constructing any building or structure is going on, for the purpose of making inspections at any reasonable hour, pursuant to any of the provisions of this title.

C. *Duties*. The building inspector shall, in addition to all other duties imposed on the inspector by the city:

1. Enforce the provisions of the building code.

2. Inspect all buildings, structures, ditches, signs, fences and objects to determine their safety and effect on the persons who are within the city.

3. Review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding (see PCC chapter 10-16 for additional flood management regulations). If a proposed building site is in a location that has a flood hazard, any proposed new construction or substantial improvement (including prefabricated and mobile homes) must:

a. Be designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure;

b. Use construction materials and utility equipment that are resistant to flood damage; and

c. Use construction methods and practices that will minimize flood damage.

(Code 1977, §§ 9-511--9-514; Code 1998, § 9-1-2; Ord. No. 002-2009, 5-26-2009)

## 9-1-3 Zoning Compliance And Building Permit

A. *Required*. The construction, alteration, structural repair, removal or placement of any structure or any part thereof, as provided for in PCC title 10, shall not be commenced, or proceeded with, except after the issuance of a written permit by the city.

B. *Application for permit*. A building permit shall be secured from the building inspector on written application accompanied by plans, specifications and all other pertinent information which must state the specific nature of the project to be commenced. The application must be made by the person who will perform or be in charge of the work.

C. *Approval of plan*. The application and plans shall be checked for placement, size and other requirements as provided by the zoning title. If zoning requirements are met, the plans shall be forwarded to the building inspector. If zoning requirements are not met, the applicant shall be notified and presented reasons why. The building inspector shall review the plans to determine whether the project conforms to building codes and ordinances of the city. The building inspector shall return the plans to the applicant with the statement "approved" or "disapproved." If the plans are disapproved, a written explanation of the reasons shall be attached. If the plans are approved, a building permit will be issued. The plans will remain on file and the building inspector may at any time revoke a building permit for any variation from the plan.

D. *Variations of plan*. No variations from the plan presented for a building permit are permitted without first obtaining approval of the new plans by following the procedure outlined in subsection C of this section.

E. *Homeowners' Association*. Homeowners' associations may have deed restrictions for construction of any structure. They may have additional regulations regarding building materials, height, and location. Any regulations that exceed city requirements will be enforced through the homeowners' associations or deed restrictions.

(Code 1998, § 9-1-3; Ord. of 8-25-1982; Ord. No. 002-2009, 5-26-2009)

## 9-1-4 Fee Schedule

The city recorder shall collect a fee for the issuance of a building permit. Said fee shall be established as per the adopted building code, plumbing code and electrical code, or as established by resolution of the city council.

(Code 1998, § 9-1-4; Ord. of 8-25-1982; Ord. No. 002-2009, 5-26-2009)

## CHAPTER 9-1A IMPACT FEES

9-1A-1 Reports Adopted
9-1A-2 Fees Imposed
9-1A-3 Service Areas
9-1A-4 Time Of Collection
9-1A-5 Adjustment Of Fees
9-1A-6 Accounting, Expenditure And Refund
9-1A-7 Administrative Challenges And Appeals Procedure
9-1A-8 Wastewater Treatment Facilities Impact Fee

**State law reference**—Utah Impact Fees Act, U.C.A. 1953, § 11-36a-101 et seq.

### 9-1A-1 Reports Adopted

The city council hereby approves and adopts the reports from the USU Center for Rural Economic Development entitled, "Providence City impact fee Analysis, July 1, 1997," the "2007 Park Impact Fee IFFP and Analysis," the "2019 Wastewater Treatment IFFP and Analysis" submitted by Logan City, the "2020 Wastewater Collection System Master Plan Report: User Rate and Impact Fee Analysis," and the analysis reflected therein for each of the impact fees in question.

(Code 1998, § 9-1A-1; Ord. No. 2020-001, 2-19-2020; Ord. No. 2021-011, 7-21-2021)

### 9-1A-2 Fees Imposed

Impact fees are hereby imposed as a condition of the issuance of a building permit by the city for any development activity which creates additional demand and need for public facilities for the culinary water system, the wastewater (sewer) system, wastewater treatment, parks, and roads, as set forth in the current impact fee schedule as adopted by resolution, which is attached to the ordinance from which this chapter is derived.

(Code 1998, § 9-1A-2; Ord. No. 2020-001, 2-19-2020; Ord. No. 2021-011, 7-21-2021)

### 9-1A-3 Service Areas

The entire area of the city and any areas outside the city serviced by such systems are hereby designated and established as one service area with respect to the culinary water system, the wastewater (sewer) system, wastewater treatment, parks, and roads.

(Code 1998, § 9-1A-3; Ord. No. 2020-001, 2-19-2020; Ord. No. 2021-011, 7-21-2021)

### 9-1A-4 Time Of Collection

Unless otherwise provided by the city council, impact fees shall be paid to the city prior to the issuance of a building permit by the city.

(Code 1998, § 9-1A-4; Ord. No. 2020-001, 2-19-2020; Ord. No. 2021-011, 7-21-2021)

## 9-1A-5 Adjustment Of Fees

A. *Considerations*. The city may adjust the impact fees imposed pursuant to this chapter as necessary in order to:

1. Respond to unusual circumstances in specific cases;
2. Ensure that the impact fees are imposed fairly;
3. Permit the adjustment of the amount of the fee based upon studies and data submitted by an applicant or developer, as approved by the city council; and
4. Allow a credit against impact fees, as approved by the city council, for dedication of land for improvement to or new construction of any system improvements by the applicant or developer if the facilities are identified in the city's facilities or other reasonable plans and are required by the city as a condition of approving the development activity. No credits shall be given for project improvements as defined by the Utah Impact Fees Act (Act) (U.C.A. 1953, § 11-36a-101 et seq.).

B. *City council*. The city council shall have the authority to make such adjustments based upon information submitted by an applicant or developer and any recommendations from other appropriate city officials or employees, including the city engineer.

C. *Policies adopted*. The city may adopt policies consistent with this chapter and any resolutions passed by the city council to assist in the implementation, administration and interpretation of this chapter related to municipal impact fees.

D. *Appeal*. If the applicant, developer, person or entity is not satisfied with the city council's decision, an appeal may be made to the appeal authority under the procedures set forth in PCC 9-1A-7.

(Code 1998, § 9-1A-5; Ord. No. 2020-001, 2-19-2020; Ord. No. 2021-011, 7-21-2021)

## 9-1A-6 Accounting, Expenditure And Refund

The city shall account for, expend and refund impact fees collected pursuant to this chapter in accordance with the provisions of the Utah Impact Fees Act (U.C.A. 1953, § 11-36a-101 et seq.).

(Code 1998, § 9-1A-6; Ord. No. 2020-001, 2-19-2020; Ord. No. 2021-011, 7-21-2021)

## 9-1A-7 Administrative Challenges And Appeals Procedure

A. *Request for information*. Any person or entity required to pay an impact fee imposed by the city who believes the fee does not meet the requirements of law may file a written request for information with the city as provided by law.

B. *Analysis provided by appellant*. Within two weeks of the receipt of the request information, the city shall provide the person or entity with the written analysis required by the Act and with any other relevant information relating to the impact fee.

C. *Written appeal; hearing*. Within 30 days after paying an impact fee, any person or entity who has paid the fee and wishes to challenge the fee shall file a written appeal with the city recorder, setting forth in detail all factual and legal grounds in support of the appeal and challenge to the impact fee, and which is relied upon by the appealing party with respect to the fees challenged. Upon receipt of the written appeal, the city recorder shall forward the appeal, together with any recommendations from the city engineer to the appeal authority and shall schedule a public hearing before the appeal authority on the appeal for the purpose of receiving input from all interested persons. The appeal authority shall thereafter render its decision on the appeal no later than 30 days after the date the appeal was filed with the city recorder. Any person or entity who has failed to comply with the administrative remedies established by this section may not file or join an action challenging the validity of any impact fee.

D. *District court appeal*.

    1. *Time limit*. Any person or entity who was a party to an appeal under this section who is adversely affected by the decision of the appeal authority may petition the district court for a review of the impact decision within 90 days of a decision upholding an impact fee by the city council or within 120 days after the date the challenge to the impact fee was filed, whichever is earlier. The petition for review of the decision shall be filed in the first district court for the county.

    2. *Transmit record of proceedings*. In the event a petition is filed with the district court, the city shall transmit to the reviewing court the record of its proceedings, including it minutes, findings, orders and, if available, a true and correct transcript of its proceedings.

    3. *Transcript*. If the proceeding was tape recorded, a transcript of that tape recording is a true and correct transcript for the purposes of subsection D.2 of this section.

    4. *Record; court review limited*. If there is a record:

        a. The district court's review is limited to the record provided by the city; and

        b. The district court may not accept or consider any evidence outside the city's record, unless that evidence was offered to the city and

the court determines that it was improperly excluded by the city.

5. *Inadequate record*. If there is an inadequate record, the court may call witnesses and take evidence.
6. *Affirmative decision*. The district court shall affirm the decision of the city council if the decision is supported by substantial evidence in the record.
7. *Attorney fees*. The judge may award reasonable attorney fees and costs to the prevailing party in an action brought under this subsection.

(Code 1998, § 9-1A-7; Ord. No. 97-OM013, 7-29-1997; Ord. No. 2020-001, 2-19-2020; Ord. No. 2021-011, 7-21-2021)

**9-1A-8 Wastewater Treatment Facilities Impact Fee**

A. *Impact fee analysis, service area*.

1. The city council hereby adopts the impact fee facilities plan (IFFP) and impact fee analysis (IFA) prepared for Logan City by Lewis Young Robertson & Burningham, Inc.
2. A copy of the IFA is included as exhibit "A," attached to the ordinance from which this chapter is derived.
3. The entire area of the city is hereby designated as one service area with respect to wastewater treatment facilities.

B. The IFFP and IFA as set forth in exhibit "A" is hereby adopted in its entirety by the city in accordance with applicable provisions of the Utah Impact Fees Act.

C. *Wastewater impact fee*.

1. A wastewater impact fee is hereby established and imposed as a condition of the issuance of a building permit for any development activity which creates additional demand and need for public facilities in accordance with the Act. The wastewater impact fee shall be based per equivalent residential unit. The nonstandard wastewater impact fee is calculated as by determining the estimated flow divided by 245 gallons per day multiplied by the fee. The fee shall be established by resolution of the city council.
2. The nonstandard impact fee is defined as commercial and industrial facilities, public facilities, multifamily residential units (more than one dwelling sharing one connection), and any other user which may create different impact than what is standard for its land use. The city or designee is responsible for the assessment and adjustment of the nonstandard impact fee.

3. The city or designee will collect the wastewater impact fee at the time of building permit application. All impact fees must be paid in full before a building permit is issued.
4. The city or designee is authorized to adjust the standard impact fee described above at the time the fee is paid in order to:
    a. Respond to:
        (1) Unusual circumstances in specific cases; or
        (2) A request for a prompt and individualized impact fee review for the development activity of the state, a school district, or a charter school and an offset or credit for a public facility for which an impact fee has been or will be collected; and
    b. Ensure that the impact fee is imposed fairly.
5. The amount of the wastewater impact fee to be imposed on a particular development may be adjusted by the city or designee.
6. Applications for exceptions are to be filed with the city or designee at the time the applicant first requests the extension of service to the applicant's development or property.
7. Subject to approval by the city or designee, developers, including a school district or a charter school, may be allowed a credit against impact fees or proportionate reimbursement of impact fees if the developer 1) dedicates land for a system improvement, 2) builds and dedicates some or all of a system improvement, or 3) dedicates a public facility that the city and the developer agree will reduce the need for a system improvement, provided that the system improvement is identified in the city's, or the city's contracted entity's, impact fee facility plan and is required by the city, or the city's contracted entity, as a condition of approving the development activity. To the extent required in section 11-36a-402 of the Act, the city, subject to the approval of the city or designee, shall provide a credit against impact fees for any dedication of land for, improvements to, or new construction of any system improvements provided by the developer if the facilities, 1) are a system improvement; or 2) are dedicated to the public and offset the need for an identified system improvement.

D. *Accounting, expenditure*.

1. The city and the city's contracted entity shall account for, expend, and refund wastewater impact fees pursuant in accordance with provisions of the Act.

E. *Administrative challenges and appeals procedure*.

1. Any person or entity required to pay a wastewater impact fee imposed by the city who believes the fee does not meet the requirements of law may file a written request for information with the city or designee as provided by law.
2. Within two weeks after the receipt of the request for information, the city or designee shall provide the person or entity with the written impact fee analysis required by the Act and with any other relevant information relating to the impact fee.

F. *Amendments, inconsistencies, severability, establishment*.

1. This chapter and fee schedule may be amended by subsequent ordinances, subject to approval by the city or designee.
2. The city may adopt policies consistent with this chapter and any resolutions passed by the city council to assist in the implementation, administration and interpretation of this chapter related to impact fees.
3. Any parts or portions of previous ordinances, resolutions, rules, and regulations which are inconsistent or in conflict with this chapter are hereby repealed.
4. Prior policies, ordinances, rules, and regulations of the city regarding wastewater impact fees that are not in conflict with this chapter remain in effect.

(Code 1998, § 9-1A-8(part); Ord. No. 2020-001, 2-19-2020; Ord. No. 2021-011, 7-21-2021)

## CHAPTER 9-2 ELECTRICAL CODE

9-2-1 Purpose And Adoption
9-2-2 Enforcement Official
9-2-3 Permit Required
9-2-4 Fees
9-2-5 Electrical Installations
9-2-6 Inspection
9-2-7 Disturbances

**State law reference**—State Construction and Fire Codes Act, U.C.A. 1953, § 15A-1-101, et seq.

### 9-2-1 Purpose And Adoption

A. *Purpose*. To provide minimum standards to safeguard life or limb, health, property and public welfare from hazards arising from the use of electricity within buildings or structures in the city, and providing for issuance of permits and collection of fees thereof.

B. *Adopted*. Pursuant to U.C.A. 1953, title 58, ch. 56 (U.C.A. 1953, § 58-56-1 et seq.), Administrative Rule R156-5, and State Construction and Fire Codes Act Rules, the state, through the state uniform building codes commission, has adopted statewide uniform technical construction codes, including amendments, The National Electrical Code, as adopted by the state, shall be and is hereby adopted by the city, in the state; and each and all of the regulation, provisions, penalties, conditions and terms of said National Electrical Code (hereafter electrical code) are here by referred to, adopted, and made a part hereof.

    1. *Public availability*. Pursuant to U.C.A. 1953, § 10-3-711, the building code is available for use and inspection by the public in the office of the city recorder.

(Code 1998, § 9-2-1(part); Ord. No. 002-2009, 5-26-2009)

## 9-2-2 Enforcement Official

The building inspector shall perform all functions of electrical inspection and shall, among other things, inspect and supervise the construction, installation, and repairs of all electrical light and power wiring, fixtures or apparatus installed within the city and shall require compliance with the provisions of the electrical code. Wiring, fixtures, and apparatus heretofore installed need not necessarily be made to conform strictly to all the provisions of the electrical code. The building inspector shall require the correction of such defects as the building inspector deems actually dangerous to life or property. Those same enforcement standards established in the electrical code shall be followed by the building inspector for all electrical work.

(Code 1998, § 9-2-2; Ord. of 8-25-1982; Ord. No. 002-2009, 5-26-2009)

## 9-2-3 Permit Required

No alterations or additions shall be made in existing wiring, nor shall any wiring or any apparatus which generates, transmits, transforms or utilizes any electricity be installed without first obtaining a building permit, except for minor repair work (i.e., replacing fuses, changing switches and receptacles, repairing cords, etc.). This section shall not apply in power houses and substations owned by electrical utilities. The requirements for permits and inspection shall not apply to devices or systems operating at 25 volts or less.

(Code 1998, § 9-2-3; Ord. of 8-25-1982; Ord. No. 002-2009, 5-26-2009)

## 9-2-4 Fees

The electrical permit fees applicable in the city for use under the National Electrical Code, shall be as established in such code or as established by resolution of the city council.

(Code 1977, § 9-543; Code 1998, § 9-2-4; Ord. No. 002-2009, 5-26-2009)

## 9-2-5 Electrical Installations

A. *Notification to building inspector*. It shall be unlawful for any person to do or cause to be done any electrical wiring or other electrical installation in a building or structure within the city without first notifying the building inspector of the kind and nature of such electric wiring or other electrical installation and the location of the building or structure in which the same is to be installed.

B. *Subject to supervision and inspection*. All electric wiring or other electrical installations shall be subject to supervision and inspection by the building inspector. It shall be unlawful for any person to do or cause to be done any electrical wiring or electrical installations without first obtaining a permit as required by PCC 9-2-3.

C. *Unlawful installation*.

1. *Disconnection; seal*. If the building inspector shall find any electrical installation not in compliance with the provisions of this chapter, not in accordance with the electrical code, or to be dangerous to life or property, the building inspector shall have the right and power to disconnect such installation and place a seal upon the same, and shall within one hour, give written notice of such disconnection to the owner or occupant of the building.

2. *Removal of seal*. After all violations have been corrected, the seal may be removed by the building inspector.

(Code 1998, § 9-2-5; Ord. of 8-25-1982; Ord. No. 002-2009, 5-26-2009)

## 9-2-6 Inspection

A. *Notification; issuance of certificate*. Upon completion of the electrical installation, it shall be the duty of the person doing the work to notify the building inspector, who shall cause the same to be inspected and, if approved, to issue a certificate of inspection which shall contain the date of such inspection and a statement that the installation was approved.

B. *Unlawful to connect current without certificate*. It shall be unlawful for any person to turn on or connect power to any installation until a certificate of approval is

issued. It shall also be unlawful to make any alterations or extensions of any installation without securing a new permit and following all procedures as for a new installation.

(Code 1998, § 9-2-6; Ord. of 8-25-1982; Ord. No. 002-2009, 5-26-2009)

### 9-2-7 Disturbances

A. *Declared nuisance*. Electrical installations which create electrical disturbances that cause interference with normal radio communication are hereby declared a nuisance. The owners or operators thereof shall so install and maintain such installations as to avoid or eliminate any such interference.

B. *Abatement*. The building inspector shall withhold or withdraw approval of any electrical installation causing any of the above disturbances and is hereby authorized to take all steps necessary for the abatement of such conditions.

(Code 1998, § 9-2-7; Ord. of 8-25-1982; Ord. No. 002-2009, 5-26-2009)

## CHAPTER 9-3 PLUMBING CODE

9-3-1 Purpose And Adoption
9-3-2 Scope
9-3-3 Building Inspector
9-3-4 Permits
9-3-5 Fees
9-3-6 Reinspection Charges
9-3-7 Allowance For Exception
9-3-8 Right Of Entry
9-3-9 Interest In Sale Of Equipment Prohibited
9-3-10 Power To Condemn
9-3-11 Penalty

**State law reference**—State Construction and Fire Codes Act, U.C.A. 1953, § 15A-1-101, et seq.

### 9-3-1 Purpose And Adoption

A. *Purpose*. To provide minimum standards to safeguard life or limb, health, property and public welfare by regulation of the erection, installation, alteration, addition, repair, relocation, replacement and maintenance or use of any plumbing system within the city and providing for issuance of permits and collection of fees thereof.

B. *Adopted*. Pursuant to U.C.A. 1953, title 58, ch. 56 (U.C.A. 1953, § 58-56-1 et seq.), Administrative Rule R156-56, and State Construction and Fire Codes Act Rules, the state, through the state uniform building codes commission, has

adopted statewide uniform technical construction codes, including amendments, the International Plumbing Code, as adopted by the state, shall be and is hereby adopted by the city, in the state; and each and all of the regulations, provisions, penalties, conditions and terms of said international plumbing code (hereafter plumbing code) are here by referred to, adopted, and made a part hereof.

1. *Public availability*. Pursuant to U.C.A. 1953, § 10-3-711, the plumbing code is available for use and inspection by the public in the office of the city recorder.

(Code 1998, § 9-3-1(part); Ord. No. 002-2009, 5-26-2009)

**9-3-2 Scope**

The provisions of this chapter shall apply to, but not be limited to, all new construction, relocated buildings, and to any installation, alteration, repair or reconstruction of a plumbing system within the city, except as otherwise provided for in this chapter.

(Code 1977, § 9-562; Code 1998, § 9-3-2; Ord. No. 002-2009, 5-26-2009)

**9-3-3 Building Inspector**

A. *Created*. There is hereby created the position of building inspector.

B. *Duties*. The building inspector shall issue permits to properly licensed, bonded and registered persons. Licensing should be for work to be done within the scope of this chapter. The building inspector:

1. Shall order changes in workmanship and/or materials essential to enforce compliance with all provisions of the plumbing code.

2. Shall investigate any construction or work regulated by this chapter and issue such notices and orders as are necessary to prevent or correct dangerous or unsanitary conditions.

3. May recommend the revocation of any license to the state department of commerce, division of occupational and professional licensing for cause, and report to the state department of commerce, division of occupational and professional licensing all violations of this chapter by journeymen, apprentices or contractors.

(Code 1977, § 9-563; Code 1998, § 9-3-3; Ord. No. 002-2009, 5-26-2009)

**9-3-4 Permits**

A. *Required; application*. No plumbing shall be installed, nor additions or alterations

made in existing plumbing, except as provided in subsection C of this section, without first obtaining a permit. Application for such permits shall be in writing to the city recorder and shall describe the nature of the work to be done and affirm that the plumbing will conform to the plumbing code. No permit shall be issued to any applicant during the time that they shall fail to correct any defective plumbing installed by said applicant after they have been notified in writing by the building inspector of the defective work.

B. *Homeowners permit*. Any permit required by this chapter may be issued to any person to do any plumbing or drainage work regulated by this chapter in a single-family dwelling used exclusively for living purposes, including the usual accessory buildings and quarters in connection with such buildings in the event that any such person is the bona fide owner of any such dwelling and accessory buildings and quarters and that the same are occupied by or designed to be occupied by the owner; and further provided, that the owner shall furnish the building inspector with a complete layout drawing of the proposed work, satisfy the building inspector that said owner has a working knowledge of the requirements contained in this chapter, pay the necessary fees, and call for all inspections required by this chapter.

C. *Exceptions*.

    1. Repairs which involve only the working parts of a faucet or valve, the clearance of stoppages, the repairing of leaks or the replacement of defective faucets or valves may be made without a permit, provided that the permits shall be procured to replace fixtures, traps, soil, waste, and vent pipes unless waived by the building inspector.

    2. Any person regularly employed by an owner or lessee of property, or the owner or lessee's agents, for the sole purpose of operating and maintaining such property and to make minor repairs thereof, and any owner or lessee of property shall be exempt from the provisions of this chapter when doing work for which permits are not required.

D. *Denial*. The building inspector may refuse to issue permits for any plumbing work to any person who has had a permit revoked in accordance with this chapter during such time as such person fails to perform plumbing work in conformance with this chapter.

E. *Expiration*. Every permit issued by the building inspector shall expire and become null and void if the work authorized by such permit is not commenced within 180 days from the date such permit is issued, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days or more.

F. *Revocation*. The building inspector may revoke any permit when the person to whom the permit is issued fails, neglects, or refuses to do the work thereunder in conformance with this chapter, or when the permit is issued in error.

(Code 1977, §§ 9-568--9-573; Code 1998, § 9-3-4; Ord. No. 002-2009, 5-26-2009)

**9-3-5 Fees**

Before a permit shall be issued, permit fees shall be as set forth in PCC 9-1-4.

(Code 1977, § 9-574; Code 1998, § 9-3-5; Ord. No. 002-2009, 5-26-2009)

**9-3-6 Reinspection Charges**

After notice that any plumbing work is ready for inspection, if the building inspector calls at the place designated to make such inspection and finds the work not ready for inspection, the building inspector may charge an additional fee for each additional inspection required.

(Code 1977, § 9-575; Code 1998, § 9-3-6; Ord. No. 002-2009, 5-26-2009)

**9-3-7 Allowance For Exception**

Where structural conditions impose extreme difficulty in fully complying with the plumbing regulations of this chapter, any aggrieved party may apply in writing to the building inspector for special permission to deviate from the regulations. If, in the judgment of the building inspector, such deviation is reasonable and does not create an unsanitary or unsafe condition, the building inspector may, on review, approve or disapprove the application or vary the conditions on which approval is granted.

(Code 1977, § 9-564; Code 1998, § 9-3-7; Ord. No. 002-2009, 5-26-2009)

**9-3-8 Right Of Entry**

The building inspector shall have the right of entry within reasonable hours to any building or premises for the purpose of inspection or to investigate any work or conditions governed by this chapter.

(Code 1977, § 9-565; Code 1998, § 9-3-8; Ord. No. 002-2009, 5-26-2009)

**9-3-9 Interest In Sale Of Equipment Prohibited**

The building inspector and the inspector's assistants shall not in any way engage in the sale or installation of plumbing equipment upon which they are required to make inspection hereunder.

(Code 1977, § 9-567; Code 1998, § 9-3-9; Ord. No. 002-2009, 5-26-2009)

**9-3-10 Power To Condemn**

A. *Granted; penalty*. The building inspector is hereby empowered to condemn and order repaired, removed, replaces or changed any plumbing found in any unsanitary condition or not in accordance with this chapter. Failure to comply with the order within a reasonable time is an infraction and subject to penalty as provided in PCC 1-4-1.

B. *Refusal To comply*. It shall be unlawful for any owner, agent or occupant of any building or premises to fail, neglect or refuse to repair, remove, replace or change, within ten days after written notice to do so from the building inspector, any plumbing condemned by such inspector, provided that this subsection shall not apply to any occupant not responsible for the installation or repair of the condemned plumbing.

(Code 1977, §§ 9-566, 9-576; Code 1998, § 9-3-10; Ord. No. 002-2009, 5-26-2009)

**9-3-11 Penalty**

A. *Homeowner, building owner or manager*. The violation of any provision of this chapter by any homeowner, building owner or manager of any building, apartment, hotel, motel or other structure shall be an infraction and subject to penalty as provided in PCC 1-4-1.

B. *Person receiving payment*. The violation of any provision of this chapter by any person who receives payment or anything of value for performing such work shall be a Class B misdemeanor and subject to penalty as provided in PCC 1-4-1.

(Code 1977, § 9-577; Code 1998, § 9-3-11; Ord. No. 002-2009, 5-26-2009)

**CHAPTER 9-4 MECHANICAL AND FUEL GAS CODES**

9-4-1 Purpose And Adoption
9-4-2 Penalty

**State law reference**—State Construction and Fire Codes Act, U.C.A. 1953, § 15A-1-101, et seq.

**9-4-1 Purpose And Adoption**

A. *Purpose*. To provide minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the design, construction, installation, quality of materials, location, operation and maintenance or use of heating, ventilating, cooling, refrigeration systems, incinerators and other miscellaneous heat producing appliances within the city and providing for issuance of permits and collection of fees thereof.

B. *Adopted*. Pursuant to U.C.A. 1953, title 58, ch. 56 (U.C.A. 1953, § 58-56-1 et

seq.), Administrative Rule R156-56, and State Construction and Fire Codes Act Rules, the state, through the state uniform building codes commission, has adopted statewide uniform technical construction codes, including amendments. The mechanical code and fuel gas code, together with the administration sections of the codes as adopted by the state, shall be and are hereby adopted by the city, in the state; and each and all of the regulation, provisions, penalties, conditions and terms of said mechanical code and fuel gas code are here by referred to, adopted, and made a part hereof.

1. *Public availability*. Pursuant to U.C.A. 1953, § 10-3-711, the mechanical code and fuel gas code are available for use and inspection by the public in the office of the city recorder.

(Code 1998, § 9-4-1(part); Ord. No. 002-2009, 5-26-2009)

**9-4-2 Penalty**

Penalties for violations of this chapter shall be as provided in PCC 1-4-1.

(Code 1998, § 9-4-2; Ord. No. 9-532, 2-28-1995, eff. 3-28-1995; Ord. No. 002-2009, 5-26-2009)

**CHAPTER 9-5 (RESERVED FOR FUTURE USE)**

**CHAPTER 9-6 FIRE CODE**

9-6-1 Code Adopted
9-6-2 (Reserved For Future Use)
9-6-3 New Materials, Processes Or Occupants
9-6-4 Appeals
9-6-5 Penalty
9-6-6 Fireworks And Other Ignition Source Restrictions

**State law reference**—State Construction and Fire Codes Act, U.C.A. 1953, § 15A-1-101, et seq.

**9-6-1 Code Adopted**

For the purpose of prescribing regulations governing conditions hazardous to life and property from fire, hazardous materials, or explosion, the city adopts the 2012 edition of the International Fire Code, published by the International Code Council, and subsequent editions as they are adopted by the state. One copy shall be filed in the office of the city recorder, one copy shall be filed in the office of the building inspector, one copy shall be filed in the county library, Providence/River Heights Branch, for examination by the public and the same are adopted and incorporated as fully as if set out at length herein, and from the effective date hereof, the provisions thereof shall be

controlling within the limits of the city.

A. The following appendices from the 2012 edition of the International Fire Code are adopted by the city as guidelines only:

    1. Appendix A – Board of Appeals.
    2. Appendix B – Fire flow requirements.
    3. Appendix C – Fire hydrant locations and distributions.
    4. Appendix D – Fire department access roads.
    5. Appendix E – Hazardous categories.
    6. Appendix F – Hazard ranking.
    7. Appendix G – Cryogenic fluids; weights and volume equivalents.

(Code 1998, § 9-6-1; Ord. No. 005-2013, 7-1-2013)

**9-6-2 (Reserved For Future Use)**

**9-6-3 New Materials, Processes Or Occupants**

The building inspector and the city's, or the city's contracted entity's, fire chief or state fire marshal shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies, which shall require permits in addition to those now enumerated in the fire code. The city's, or the city's contracted entity's, fire chief or state fire marshal shall post such list in a conspicuous place in their office and distribute copies thereof to interested persons.

(Code 1977, § 10-159; Code 1998, § 9-6-3; Ord. No. 005-2013, 7-1-2013)

**9-6-4 Appeals**

Whenever the building inspector shall disapprove an application, refuse to grant a permit for which application has been received, or when it is claimed that the provisions of the fire code do not apply or that the true intent and meaning of the International Fire Code have been misconstrued or wrongly interpreted, the applicant may appeal the decision of the building inspector to the city council within 30 days from the date of such decision.

(Code 1977, § 10-158; Code 1998, § 9-6-4; Ord. No. 005-2013, 7-1-2013)

**9-6-5 Penalty**

A. *Violation; classification*. Any person who shall violate any of the provisions of the International Fire Code or fail to comply therewith, or who shall violate or fail to

comply with any order thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the city council or by a court of competent jurisdiction within the time fixed herein shall, severally for each and every such violation and noncompliance respectively, be guilty of a Class B misdemeanor and subject to penalty as provided in PCC 1-4-1. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue. All persons shall be required to correct or remedy such violations or defects within a reasonable time, and when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.

B. *Enforced removal*. The application of the above penalty shall not be held to prevent the enforced removal of the prohibited condition.

(Code 1977, § 10-160; Code 1998, § 9-6-5; Ord. No. 005-2013, 7-1-2013)

### 9-6-6 Fireworks And Other Ignition Source Restrictions

A. When hazardous environmental conditions necessitate controlled use of any ignition source, including fireworks, lighters, matches, sky lanterns, and smoking materials, the city council may issue an order prohibiting or restricting the use of any ignition source in mountainous, brush-covered, or forest-covered areas or the wildland urban interface area.

B. An order issued under this section shall be filed with the city recorder's office and published in a manner reasonably calculated to give notice to the general public. The order shall describe the prohibitions or restrictions and the areas in which they are applicable.

(Code 1998, § 9-6-6; Ord. No. 005-2013, 7-1-2013)

## CHAPTER 9-7 RESIDENTIAL BUILDING CODE

9-7-1 Purpose And Adoption
9-7-2 Fee Schedule

**State law reference**—State Construction and Fire Codes Act, U.C.A. 1953, § 15A-1-101, et seq.

### 9-7-1 Purpose And Adoption

A. *Purpose*. The purpose of this chapter is to provide minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the design, the erection, construction, enlargement, alteration, repair,

moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of all buildings or structures in the city and providing for issuance of permits and collection of fees thereof.

B. *Adopted*. Pursuant to U.C.A. 1953, title 58, ch. 56 (U.C.A. 1953, § 58-56-1 et seq.), Administrative Rule R156-56 and State Construction and Fire Codes Act Rules, the state, through the state uniform building codes commission, has adopted statewide uniform technical construction codes, including amendments, and this municipal code, which shall be and are hereby adopted as the residential building code of the city, in the state, for the control of buildings and structures as herein provided; and each and all of the regulation, provisions, penalties, conditions and terms of said residential building code are here by referred to, adopted, and made a part hereof.

    1. *Public availability*. Pursuant to U.C.A. 1953, § 10-3-711, the residential building code is available for use and inspection by the public in the office of the city recorder.

(Code 1998, § 9-7-1(part); Ord. No. 002-2009, 5-26-2009)

**9-7-2 Fee Schedule**

The city recorder shall collect a fee for the issuance of a building permit. Said fee shall be established as per the adopted building code, plumbing code and electrical code, or as established by resolution of the city council.

(Code 1998, § 9-7-2; Ord. No. 002-2009, 5-26-2009)

## TITLE 10 ZONING REGULATIONS

CHAPTER 10-1 ZONING REGULATIONS GENERAL PROVISIONS
CHAPTER 10-2 ADMINISTRATION AND ENFORCEMENT
CHAPTER 10-3 PERMITS, PLANS AND ANNEXATION
CHAPTER 10-4 ESTABLISHMENT OF DISTRICTS
CHAPTER 10-5 SENSITIVE AREAS
CHAPTER 10-6 USE REGULATIONS
CHAPTER 10-7 NONCONFORMING USES AND NONCOMPLYING STRUCTURES
CHAPTER 10-8 AREA REGULATIONS AND PARKING REQUIREMENTS
CHAPTER 10-9 SUPPLEMENTARY REGULATIONS WITHIN ALL DISTRICTS
CHAPTER 10-10 (RESERVED FOR FUTURE USE)
CHAPTER 10-11 MANUFACTURED HOUSING REGULATIONS
CHAPTER 10-12 ACCESSORY APARTMENT UNITS
CHAPTER 10-13 ACCESSORY DWELLING UNIT ORDINANCE
CHAPTER 10-14 SPECIAL DEVELOPMENTS
CHAPTER 10-15 SIGN REGULATIONS
CHAPTER 10-16 FLOODPLAIN MANAGEMENT REGULATIONS

**State law reference**—Land use regulations, U.C.A. 1953, § 10-9a-501 et seq.

## CHAPTER 10-1 ZONING REGULATIONS GENERAL PROVISIONS

10-1-1 Title
10-1-2 Purposes
10-1-3 Scope
10-1-4 (Reserved For Future Use)
10-1-5 Amendments, Changes
10-1-6 Notice Requirements

### 10-1-1 Title

This title shall be known as the "Zoning Title of Providence City, County of Cache, State of Utah."

(Code 1998, § 10-1-1; Zon. Ord., 5-8-1991; Ord. No. 005-2009, 09-22-2009; Ord. No. 004-2010, 04-13-2010; Ord. No. 001-2012, 04-10-2012; Ord. No. 001-2013, 08-06-2013; Ord. No. 019-2013, 10-08-2013; Ord. No. 023-2016, 10-11-2016; Ord. No. 2018-016, 12-11-2018; Ord. No. 2019-018, 10-22-2019)

### 10-1-2 Purposes

A. *Health, safety and welfare*. The purposes of this title are to protect and promote the health, safety, order, prosperity, and general welfare of the present and future

inhabitants of the city. This includes regulation on the height and size of buildings and other structures, percentage of lot that may be occupied, size of yards, courts, and other open spaces, density of population, and use of buildings, structures and land for trade, industry, residence or other purposes, and the landscaping thereof.

1. Uncontrolled contamination sources must be restricted from zone one for wells in protected and unprotected aquifers. Pollution sources must be restricted from zone two for wells and springs in unprotected aquifers. Unless the pollution source agrees to install design standards which prevent contaminated discharges to groundwater (See Source Protection Zone Maps 1, 2, and 3).
2. Definitions for the above paragraph are found in the Drinking Water Source Protection Rule, effective July 26, 1993, revised July 26, 1995, revised June 15, 1998.

B. *Resource conservation*. This title is also designed to conserve the value and integrity of rural residential neighborhoods, encourage attractive and functional commercial centers, ensure orderly growth, protect life and property from natural hazards, ensure efficient and safe traffic movement, increase or stabilize the local tax base, preserve culturally and historically important sites and landmarks, encourage good visual quality and high aesthetic standards and efficiently utilize and conserve the city's resources.

(Code 1998, § 10-1-2; Zon. Ord., 5-8-1991; Ord. No. 98-023, 1-26-1999; Ord. No. 005-2009, 09-22-2009; Ord. No. 004-2010, 04-13-2010; Ord. No. 001-2012, 04-10-2012; Ord. No. 001-2013, 08-06-2013; Ord. No. 019-2013, 10-08-2013; Ord. No. 023-2016, 10-11-2016; Ord. No. 2018-016, 12-11-2018; Ord. No. 2019-018, 10-22-2019)

## 10-1-3 Scope

A. *Boundary*. This title shall apply within the corporate boundary of the city.

B. *Interpretation*. In interpreting and applying the provisions of this title, the requirements contained herein are declared to be the minimum requirements for the purposes herein stated and shall not nullify the more restrictive provisions of covenants, conditions, agreements or other ordinances or laws, but shall prevail notwithstanding such provisions which are less restrictive.

C. *Nonconforming uses*. Any use or occupation of land previously approved as an exception or nonconforming use and having the status of an approved exception or nonconforming use as of the effective date of the ordinance from which this title is derived shall be permitted to continue as a lawful nonconforming use or exception. Any approved site plan and all other terms, covenants and conditions applicable as of the effective date of the ordinance from which this title is derived shall continue to apply and control the use and occupation of such land. Any

proposed change, however, to any site plan or use and occupation shall be done in compliance with the conditions and requirements of this title (see PCC title 7).

D. *District regulations*. No building, structure or land may hereafter be used or occupied, and no building or structure or part thereof may hereafter be erected, constructed, moved or altered, except in conformance with all the regulations and restrictions applicable to the zoning district in which it is located.

E. *Existing zoning ordinance*. The zoning ordinance of the city, including any maps, is hereby superseded and amended to read as set forth herein; provided, however, that the ordinance from which this title is derived shall be deemed a continuation of the previous ordinance and not a new enactment insofar as the substance of revisions of the previous ordinance is included, whether in the same or in different language; and the ordinance from which this title is derived shall be so interpreted upon all questions of construction, including, but not limited to, questions of construction relating to tenure of officers and boards established by previous ordinances and to questions of conforming or nonconforming uses, buildings or structures and to questions as to dates upon which such uses, buildings or structures became conforming or nonconforming.

(Code 1998, § 10-1-3; Zon. Ord., 5-8-1991; Ord. No. 005-2009, 09-22-2009; Ord. No. 004-2010, 04-13-2010; Ord. No. 001-2012, 04-10-2012; Ord. No. 001-2013, 08-06-2013; Ord. No. 019-2013, 10-08-2013; Ord. No. 023-2016, 10-11-2016; Ord. No. 2018-016, 12-11-2018; Ord. No. 2019-018, 10-22-2019)

**10-1-4 (Reserved For Future Use)**

**10-1-5 Amendments, Changes**

A. *Zoning title*. Changes and amendments to this zoning title shall be done in accordance with state law (U.C.A. 1953, § 10-9a-501).

B. *Zoning change*. Any change of zoning shall be by a vote of the city council with at least three councilmembers voting in favor of said change. Such action shall be taken only after a recommendation concerning such request for zoning change is received from the planning commission or after the time for response has elapsed, after public notification, and after a public hearing is held in accordance with state law.

1. *Application for rezone*. A complete application must include the following:

a. Payment of the application fee established by resolution.

b. Written statement of the purpose for the rezone.

c. Combined legal description of the area proposed for rezone.

d. Map showing the area proposed for rezone, including the general

location of all nondevelopable sensitive areas, all potentially developable sensitive areas, existing infrastructure (including, but not limited to, roads, water mains, sewer mains, stormwater facilities, parks, etc.), and any proposed infrastructure shown in the city's general plan and associated maps.

e. Names and addresses for affected entities, as defined by U.C.A. 1953, § 10-9a-103.

f. Names and addresses for adjacent property owners, as defined by PCC 1-3-2.

g. Applicants are encouraged, but not required, to provide information about the type of housing, the layout of the development, etc., for the benefit of the planning commission.

(Code 1998, § 10-1-5; Zon. Ord., 5-8-1991; Ord. No. 005-2009, 09-22-2009; Ord. No. 004-2010, 04-13-2010; Ord. No. 001-2012, 04-10-2012; Ord. No. 001-2013, 08-06-2013; Ord. No. 019-2013, 10-08-2013; Ord. No. 023-2016, 10-11-2016; Ord. No. 2018-016, 12-11-2018; Ord. No. 2019-018, 10-22-2019)

**10-1-6 Notice Requirements**

A. *Require notice*. At a minimum, the city shall provide actual notice or the notice required by U.C.A. 1953, title 10, ch. 9a. (U.C.A. 1953, § 10-9a-101 et seq.).

B. *Third-party (adjacent property owners) notice*. Unless otherwise required by the state code, the city will require notice to be given to adjacent property owners of the adoption, modification, repeal or other action related to a land use ordinance. The city elects to provide notice to adjacent property owners as follows:

1. Mail notice to the record owner of each parcel; and

2. Post notice on the property with a sign of sufficient size, durability, print quality, and location that is reasonably calculated to give notice to passers-by.

C. *Names and address of third-party persons*. In addition to any other information required from an applicant or petitioner under the provisions of the land use ordinance, each applicant or petitioner shall submit to the municipality, with the required application or petition, a list stating the names and addresses of all owners of all relevant real property in order for the city to mail notice as set forth in this title. The cost of forwarding the notices may be charged to and collected from the applicant or petitioner.

(Code 1998, § 10-1-6(part); Ord. No. 004-2007, 1-23-2007; Ord. No. 005-2009, 09-22-

2009; Ord. No. 004-2010, 04-13-2010; Ord. No. 001-2012, 04-10-2012; Ord. No. 001-2013, 08-06-2013; Ord. No. 019-2013, 10-08-2013; Ord. No. 023-2016, 10-11-2016; Ord. No. 2018-016, 12-11-2018; Ord. No. 2019-018, 10-22-2019)

**State law reference**—Notice requirements, U.C.A. 1953, § 10-9a-201 et seq.

## CHAPTER 10-2 ADMINISTRATION AND ENFORCEMENT

10-2-1 Established
10-2-2 Penalty

### 10-2-1 Established

The city shall enforce and administer the provisions of this title. Failure of the city to pursue appropriate legal remedies shall not legalize any violation of such provisions. Reasonable legal fees incurred by the city in enforcement hereof may be assessed as an additional penalty for violation of this title.

(Code 1998, § 10-2-1; Zon. Ord., 5-8-1991)

### 10-2-2 Penalty

Any person violating, causing or permitting the violation of the provisions of this title shall be guilty of a Class C misdemeanor, subject to penalty as provided in PCC 1-4-1, as amended. Any such person shall be deemed to be guilty of a separate offense for each and every day during which any violation of this title is committed, continues or results from the action or inaction of such person.

(Code 1998, § 10-2-2; Zon. Ord., 5-8-1991)

## CHAPTER 10-3 PERMITS, PLANS AND ANNEXATION

10-3-1 General Regulations
10-3-2 (Reserved For Future Use)
10-3-3 (Reserved For Future Use)
10-3-4 Certificate Of Zoning Compliance
10-3-5 Conditional Use Permits
10-3-6 Annexation
10-3-7 Utility And Communication Facilities

### 10-3-1 General Regulations

A. *Permit issuance; scope*. From the time of the effective date of the ordinance from which this title is derived, the building inspector shall not grant a permit, nor shall any city office, department or agency shall not grant any license or permit for the use of any land or the construction or alteration of any building or structure which was not approved prior to the effective date of the ordinance from which this chapter is derived which would be in violation of any provisions of this title until

said land use, building or structure has been approved as herein required. Any license or permit issued in conflict with such provisions shall be void.

B. *Conflicts*. Should any permit or license issued after the effective date of the ordinance from which this title is derived conflict with the provisions of this title, such permit or license shall be null and void.

(Code 1998, § 10-3-1; Zon. Ord., 5-8-1991; Ord. No. 003-2011, 3-22-2011; Ord. No. 2019-024, 11-12-2019)

**10-3-2 (Reserved For Future Use)**

**10-3-3 (Reserved For Future Use)**

**10-3-4 Certificate Of Zoning Compliance**

A. No land or building hereafter structurally altered or constructed shall be used, changed in use or occupied until a certificate of zoning compliance shall have been issued by the city. The certificate shall state that the building or the proposed use of land complies with the provisions of this title and that in the case of a nonconforming use that the degree of nonconformity is not increased in any way. A certificate for the whole or a portion of a building or structure shall be applied for simultaneously with the application for a building permit and shall be issued within ten days after the building or structure shall have been completed in conformance with the provisions of this title.

B. Homeowners' associations may have deed restrictions for construction of any structure. They may have additional regulations regarding building materials, height and location. Any regulations that exceed city requirements will be enforced through the homeowners' associations or deed restrictions.

(Code 1998, § 10-3-4; Zon. Ord., 5-8-1991; Ord. No. 003-2011, 3-22-2011; Ord. No. 2019-024, 11-12-2019)

**10-3-5 Conditional Use Permits**

A. *Referral*. All requests for permits in districts which involve uses listed as a conditional use in PCC 10-5-1 and 10-6-1 shall be referred to the city administrative land use authority.

B. *Fees*. The city administrative land use authority chairperson may collect a fee to cover the costs of advertising and/or mailing of announcements to property owners warranting notification as deemed necessary by the city administrative land use authority.

C. *Public hearing*. Applicants shall supply suitable plans and information

concerning the location, function and characteristics of any use proposed to the city administrative land use authority chairperson prior to the scheduling of any public meeting or hearing. The decision of whether or not to hold a public hearing shall be at the discretion of the city administrative land use authority.

D. *Approval; rejection*. The city administrative land use authority may approve, conditionally approve, or reject the request. If approval is granted, the city administrative land use authority chairperson shall issue the conditional use permit. If approval is conditional, then said conditions shall be attached to the permit to ensure compliance with the intent and purposes of this title.

E. *Standards*. A conditional use permit shall be approved if reasonable conditions can be imposed to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with the following standards:

    1. Conditions may be imposed on a proposed conditional use:

        a. To mitigate the effects of the proposed use on the health, safety, or general welfare of persons residing, working, or conducting business in the vicinity;

        b. To mitigate injury to property in the vicinity;

        c. To mitigate any risk to safety of persons or property because of vehicular traffic or parking, large gatherings of people, or other causes;

        d. To mitigate unreasonable interference with the lawful use of surrounding property;

        e. To mitigate the need for essential municipal services which cannot be reasonably met;

        f. To mitigate the exposure of minors to activities appropriately restricted to adults; and

        g. To better conform the proposed use to the principles and objectives of the zoning regulations and general plan.

    2. Conditions may be imposed on a conditional use permit, including, but not limited to, limitations on the size and shape of buildings; the dedication, rededication and/or development of streets; installation and upsizing of utility mains; screening or landscaping to protect adjacent properties; the elimination or relocation of windows or doors to protect the public and adjacent property from the detrimental features of the proposed use; restrictions in signage, lighting, and on-premises advertising, including the number, location, color size, height, lighting, and landscaping of signs; increased set-back distances; appropriate design, construction, and location of structures, buildings, and facilities in relation to an earthquake fault which may exist on the property, and limitations

and/or restrictions to use and/or location of use due to special site conditions, including, but not limited to, geologically hazardous areas, floodplains, fault zones, and landslide areas; limitation and/or restrictions on the use and/or locations of uses in sensitive areas due to soils capabilities, wildlife, and plant life; processes for the control, elimination, or prevention of land, water, or air pollution; the prevention of soil erosion; and the control of objectionable odors and noise; the planting of ground cover or other surfacing to prevent dust and erosion; or the requirement of additional parking or other changes.

3. The city administrative land use authority may require that the applicant prepare and record covenants running with the land which under the conditions are binding upon the applicant and their successors.
4. A conditional use permit may be denied if the proposed use cannot be substantially mitigated by reasonable conditions imposed in accordance with these standards. A conditional use permit may not be denied, however, if the denial violates state or federal law.
5. A conditional use permit for an adult-oriented business shall be denied if any portion of the parcel of land upon which the proposed adult-oriented business is to be located within 600 feet of any parcel of land upon which is located a church, park, school, establishment licensed to sell or dispense beer or alcohol, or another adult-oriented business, or within 600 feet of any parcel of land zoned for any residential use

(Code 1998, § 10-3-5; Zon. Ord., 5-8-1991; Ord. No. 004-2007, 1-23-2007; Ord. No. 003-2011, 3-22-2011; Ord. No. 2019-024, 11-12-2019)

**State law reference**—Conditional uses, U.C.A. 1953, § 10-9a-507.

## 10-3-6 Annexation

A. *Classification*. New area annexed to the city shall be annexed into the city as an agricultural zone, or as an already defined zone per the city's map, Future Rezoning of Existing Districts and Annexed Areas of the City of Providence, Utah; any other zoning proposal shall be submitted to the planning commission for consideration and recommendation to the city council, unless otherwise approved by the city council as provided in the state code, as may be amended. Any annexation shall be accomplished in accordance with state law. Notification must be delivered to each landowner involved or to any person owning land adjacent to the land involved by the petitioner.

B. *Application; fee*. Formal application for annexation will require the payment of an application fee which will be applied to administrative costs, including, but not limited to, publication fees, staff review fees, postage, etc., Professional fees

such as legal and engineering fees incurred by the city will be billed, as billed by the professional firm, to the contact sponsor. The application fee will be set by a resolution of the city council.

C. *Petition*. The annexing parties must provide an annexation petition and plat in accordance with state law.

1. In addition to the petition and plat, the applicant shall provide the following information:

a. A list, including the mailing address, of each affected entity, as defined in U.C.A. 1953, § 10-2-401.

b. A list, including the mailing address, of each adjacent property owner, as defined in PCC 1-3-2.

c. Feasibility study addressing the following:

(1) All utilities/services, including, but not limited to, transportation/streets, water, sewer, storm drain, gas, power, and communication services will be provided to this area.

(2) Any sensitive areas, including, but not limited to, those listed in PCC chapter 10-5 and the Disaster Mitigation Plan Bear River Region Utah.

d. A development plan that shows:

(1) The topographic character of the land, and any major grading intended;

(2) Proposed land uses, population densities, and building intensities;

(3) Proposed circulation pattern indicating both public and private streets;

(4) Proposed parks, playgrounds, school sites, and other open spaces;

(5) A market analysis of proposed uses, if required by the planning commission;

(6) Delineation of the units to be constructed in progression, if any; and relation of the proposed development to future land use in surrounding area and as shown on the general plan.

(Code 1998, § 10-3-6; Zon. Ord., 5-8-1991; Ord. No. 003-02, 3-26-2002; Ord. No. 014-2003, 11-25-2003; Ord. No. 003-2011, 3-22-2011; Ord. No. 2019-024, 11-12-2019)

**State law reference**—Annexed territory, U.C.A. 1953, § 10-9a-506.

## 10-3-7 Utility And Communication Facilities

A. *Permit required*.

1. Zoning clearance shall be required for all utility and communications facilities; aboveground, major.
2. Building permits shall be required for all utility and communications facilities; aboveground, major in accordance with the building code adopted by the city.
3. Zoning clearance shall be required for all utility and communications facilities; aboveground, minor with the following exception:
    a. Companies that have entered into a franchise agreement with the city. However, facilities must be placed in accordance with PCC 10-9-2. In addition, facilities must not block or limit use of a sidewalk, walking path, trail, etc.

(Code 1998, § 10-3-7(part); Ord. No. 003-2011, 3-22-2011; Ord. No. 2019-024, 11-12-2019)

# CHAPTER 10-4 ESTABLISHMENT OF DISTRICTS

10-4-1 Zoning Districts Established
10-4-2 Boundaries Of Districts
10-4-3 Planned District (P)
10-4-4 Mixed-Use District
10-4-5 Public District
10-4-6 Life Cycle Residential Zone

## 10-4-1 Zoning Districts Established

The city is hereby divided into zoning districts. Portions of each district may also be designated as being within a hazard or redeveloping zone and thus be subject to additional regulations (see PCC 10-3-5, 10-5-1 and chapter 10-14). The regulations established herein are uniform for all classes of buildings within each district. The districts established herein shall be known as:

| *District* | *Abbreviation* | *Minimum Lot Size (in sq. ft.)* | *Summary* |
|---|---|---|---|

| | | | |
|---|---|---|---|
| Agricultural District | AGR | 217,800 (5 acres) | Agricultural operations. |
| Single-Family Estate District | SFE | 43,560 (1 acre)* | Single-family residential type uses. Home businesses may be allowed as a permitted use or a conditional use. |
| Single-Family Large District | SFL | 21,800* | |
| Single-Family Traditional District | SFT/R-1-12 | 12,000* | |
| Single-Family Residential Density District | SFR/R-1-10 | 10,000 | |
| Single-Family Medium-Density District | SFM/R-1-8 | 8,000 | |
| Single-Family High-Density District | SFH/R-1-6 | 6,000 | |
| Single-Family Mobile Home District | SMH | 5,000 | |
| Multifamily Residential-Density District | MFR | 10,000 | Multifamily residential type uses. Home businesses may be allowed as a permitted use or a conditional use. |
| Multifamily Medium-Density District | MFM | | |
| Multifamily High-Density District | MFH | | |
| Mixed-Use District | MXD | | See PCC 10-4-4. |
| Commercial Neighborhood District | CND | | Small scale, day-to-day convenience shopping and services for residents of the immediate neighborhood. |
| Commercial General District | CGD | | Retail, personal service, entertainment, office and related commercial uses. |
| Commercial Highway District | CHD | | Retail uses (88%), minimal nonretail use allowed (12%). |
| Planned District | P | | See PCC 10-4-3. |
| Public District | PUB | | See PCC 10-4-5. |
| Recreation District | REC | | |
| *Lot size averaging may be used in these zones. See PCC 10-8-2A. | | | |

(Code 1998, § 10-4-1; Ord. No. 011-2009, 12-8-2009; Ord. No. 2015-007, 2-24-2015; Ord. No. 2018-005, 4-24-2018; Ord. No. 2019-001, 1-8-2019; Ord. No. 2021-012, 7-21-2021)

**State law reference**—Districts authorized, U.C.A. 1953, § 10-9a-505.

## 10-4-2 Boundaries Of Districts

A. *Established; zoning map*. The boundaries of the zoning districts are hereby established as delineated on the officially adopted map (or maps) entitled, "Zoning Map of Providence City, Utah," or as hereafter amended by due process. The zoning map and all boundaries, notations and other data shown thereon shall be as much a part of this title as if fully described and detailed herein. The map shall be filed in the office of the city and may be examined by the public and made available for city use.

B. *Boundaries not established; determination*. District boundary lines that are not established by legal definition shall be determined as follows:

1. Boundaries indicated as being approximately upon the center line of a street, alley, easement, block, canal, waterway or other existing landmark shall be construed to follow such center line.
2. Boundaries indicated as following lot lines shall be construed as following such platted lot lines.
3. Boundaries indicated as following city limits shall be construed as following such legal city limit lines.
4. Boundaries indicated as being parallel to or extensions of features indicated on the map shall be so construed. Distances not specifically designated shall be determined by the scale of the map.
5. Whenever any street, alley or other public way is vacated by official action of the city council, or whenever such area is franchised for building purposes, the zoning district line adjoining each side of such street, alley or other public way shall be automatically extended to the center line of such vacated street, alley or way and all area so involved shall then and henceforth be subject to all regulations of the extended districts.
6. Any uncertainty regarding district boundaries not clarified by the five preceding criteria shall be referred to the appeal authority for resolution.

C. *Changes*. Changes in the boundaries of the zoning districts shall be made only by due process as set forth in PCC 10-1-5.

(Code 1998, § 10-4-2; Zon. Ord., 5-8-1991; Ord. No. 011-2009, 12-8-2009; Ord. No.

2015-007, 2-24-2015; Ord. No. 2018-005, 4-24-2018; Ord. No. 2019-001, 1-8-2019; Ord. No. 2021-012, 7-21-2021)

## 10-4-3 Planned District (P)

A. *Purposes*.

1. To encourage and provide a means for effectuating desirable development through the use of variations in site layout, mixed land uses, and/or varied dwelling or other buildings.
2. To preserve the amenities and compatibility of P districts by adoption of a general development plan, showing proper orientation, desirable design character, and compatible land uses.
3. To provide for the orderly pre-planning and long-term development for a variety of uses of large tracts of land which are under unified ownership or development control, so as to ensure that the entire tract will provide an environment of stable and desirable character.
4. To give the developer reasonable assurance that sectional development plans prepared in accordance with an approved general development plan will be acceptable to the local jurisdiction. Sectional development plans shall include subdivision plans and/or planned unit development plans as provided for in this chapter.
5. To enable the adoption of measures providing for development of the surrounding area in character compatible with the planned district.

B. *Standards and requirements*. The following provisions shall apply in a P district, which district shall also be subject to other provisions of the zoning ordinance, except that where conflict in regulations occurs, the regulations specified in this chapter, or on a development plan approved pursuant to this chapter, shall apply.

1. P districts may be established on parcels of land which are suitable for, and of sufficient size to be planned and developed in a manner consistent with the purposes and objectives of this chapter. No P district shall include less than ten acres of contiguous land.
2. No ordinance establishing a P district shall be adopted unless and until there is on file with the local jurisdiction written consent of every property owner within such district at the time of adoption of the ordinance from which this chapter is derived, agreeing:
    a. That the owner will be bound by the conditions and regulations proposed and which will be effective within the district; and
    b. To record such written agreement with the county recorder.

3. Before detailed studies of any P district development plans shall be undertaken by the planning staff or the planning commission, there shall be on file with the local jurisdiction the written request of all property owners within the proposed district that such detailed studies be made.

4. Standards for area, coverage, density, yard requirements, parking and screening for P district uses shall be governed by the standards of the residential, commercial, or industrial zoning districts most similar in nature and function to the proposed P district use, as determined by the planning commission, and as modified by the approved general development plan. Standards for public improvements shall be governed by applicable ordinances and laws. Exceptions to these standards by the planning commission and by the governing body are possible, when these bodies find that such exceptions encourage a desirable living environment and are warranted in terms of the total proposed development or unit thereof.

C. *Preliminary development plan approval*.

1. *Procedure and applications*. Prior to the filing of a formal P district rezoning application, the applicant shall submit a preliminary development plan for an approval in principle thereof by the planning commission and the governing body.

    a. The preliminary development plan and text shall be prepared and endorsed by a qualified urban planner, with other professional assistance as required, and shall include the following information presented in a general schematic fashion:

        (1) The topographic character of the land, and any major grading intended;

        (2) Proposed land uses, population densities, and building intensities;

        (3) Proposed circulation pattern indicating both public and private streets;

        (4) Proposed parks, playgrounds, school sites, and other open spaces;

        (5) A market analysis of proposed uses, if required by the planning commission, if the property is not zoned for commercial purposes at the time of submittal of the preliminary development plan;

        (6) Delineation of the units to be constructed in progression, if any; and relation of the proposed development to future land use in surrounding area and as shown on the master plan.

D. *Public hearing, optional*. A public hearing on the preliminary development plan may be held by the planning commission and governing body. Approval in principle of the preliminary development plan shall be limited to the general acceptability of the land uses proposed and their interrelationships and shall not be construed to endorse precise location of uses, configuration of parcels, or engineering feasibility, and such approval shall not be construed as or deemed to be in any form or sense a commitment to approve any subsequent formal rezoning application.

E. *General development plan and schedule approval*. Together with the application for rezoning classification, the applicant shall submit the following general development plan consisting of documents and supporting evidence, prepared and endorsed by a qualified professional team, as required by the planning commission.

1. A survey map prepared and certified by a licensed surveyor of the property, showing existing features of the property including specimen trees, structures, streets, easements, drainage channels, utility lines, and existing land uses;

2. A general development plan which shall be in reasonable conformance with the approved preliminary plan, showing as appropriate, all the information required on the preliminary development plan; the approximate location and proposed density of dwelling units; nonresidential building uses and intensities; and land use considered suitable for adjacent properties;

3. A schedule for the development of units to be constructed in progression and a description of the design principles for buildings and streetscapes; tabulation of total number of acres in the proposed project and the percent thereof designated for the various uses; the number of dwelling units proposed by type of dwelling unit of the P district; estimated nonresidential population; proposed retail sales area and economic justification; anticipated timing for construction of each unit; and standards for height, open space, building intensity, population density, and public improvements proposed for each unit of development whenever the applicant proposes an exception from standard zoning district or other ordinance regulations governing development;

4. Evidence that the applicant has sufficient control over the land to effectuate the proposed plan;

5. Engineering and other feasibility studies, as necessary; and if the development or plan is to be approved in stages, each stage of development shall be completed prior to proceeding to the next stage, or adequate performance guaranties be posted to ensure completion of

each approved stage.

F. *Findings required*.

1. The planning commission, after public hearing, may recommend the establishment of a P district, and the governing body, after public hearings, may by ordinance establish a P district, provided that both find that the facts submitted with the application and presented at the hearings establish that:

    a. The proposed P district or a given unit thereof, can be substantially completed within two years of the establishment of the P district;

    b. That each individual unit of development as well as the total development, can exist as an independent unit capable creating an environment of sustained desirability and stability, or that adequate assurance will be provided that such objective will be attained; and that the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under other zoning districts;

    c. That the streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic, and increased densities will not generate traffic in such amounts as to overload the street network outside the P district;

    d. That commercial development can be justified economically at the locations proposed to provide commercial facilities;

    e. That the area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development;

    f. That any exception from standard ordinance requirements is warranted by the design and amenities incorporated into the general development plan, in accordance with adopted policy of the planning commission and the governing body;

    g. That the P district is in conformance with the master plan; and

    h. That existing or proposed utility services are adequate for the population and use densities proposed.

G. *Planning commission and governing body's action*.

1. If, from the facts presented, the planning commission, or the governing body is unable to make the necessary findings, the application shall be denied.

2. In taking action, the planning commission may deny the general development plan and general development schedule as submitted or may recommend approval of said plan and schedule to the governing body, subject to specified amendments.
3. Upon application for rezoning of an area to a P district and recommendation of such rezoning by the planning commission, the governing body shall hold a public hearing thereon as required by other amendments to the zoning ordinance.
4. Changes of use or density of an approved general development plan shall be considered the same as a change in the zoning map and shall be made in accordance with the provisions for amendments of the zoning ordinance. If no development has occurred to effectuate a P district development within two years after the district is created, the planning commission shall review the action and determine whether or not the continuation of a given P district is in the public interest. If the planning commission so recommends, the governing body may order the area reverted to the original district from which it was created, without a public hearing.
5. At the time of adoption of any ordinance establishing a P district, the governing body shall make appropriate arrangements with the applicant to ensure the accomplishment, at the scheduled times, of the public improvements, public dedications, and grants of easement shown on the approved general development plan. The P district shall be given an appropriate name, number or letter to identify it; and the approved general development plan shall be adopted by reference and become a part of this title.

(Code 1998, § 10-4-3; Ord. No. 011-2009, 12-8-2009; Ord. No. 2015-007, 2-24-2015; Ord. No. 2018-005, 4-24-2018; Ord. No. 2019-001, 1-8-2019; Ord. No. 2021-012, 7-21-2021)

## 10-4-4 Mixed-Use District

A. *Purpose*. The Mixed-Use District is established to encourage transition between zones and to stimulate economic development by providing a unique planning environment that combines retail, commercial, office, and residential development in a pedestrian-friendly manner. This district encourages creative development and site. The MX district includes a mixture of uses with no one land use type being a constant dominate or prevailing use. Of the uses (retail, commercial, office, and residential development) included in the development, no one use can be more than 50 percent of the entire development. Residential development is required.

1. The percentage of each use is determined by the total square footage of each unit in the particular use.

B. *Procedures*.

1. The planning commission shall be the land use authority for approval of all development proposals in the MX district. All exterior construction visible from adjacent properties or public streets must also be reviewed and approved by the planning commission.
2. Prior to the planning commission taking action, plans must be submitted in accordance with the zoning ordinance.
3. All submissions shall be made in conformance with the adopted application and agenda deadline schedule.

C. *Uses allowed*. The variety of uses allowed in a MX district are intended to create a mix of retail, commercial, and residential dwelling land use types that can be developed in a compact design that encourages compatibility of uses. Permitted uses include, but are not limited to, single-family and multifamily residential uses, entertainment, office, and personal services, such as business office, dental clinic, medical clinic, licensed professional offices, optical shop, pharmacy, studios for art/dance/drama/photography/etc., bakery/confectionery sales, barber/beauty shop, pet grooming, bank/financial, fitness center, and theater. See PCC 10-6-1 for a complete list of uses. Any uses not listed on a table in that section are not permitted.

D. *Development standards*. The following provisions shall apply in a MX district, which district shall also be subject to other provisions of this title, except that where conflict in regulations occurs, the regulation specified in this chapter, or on a development plan approved pursuant to this chapter, shall apply.

1. *Open space*. Usable open space shall be provided within the mixed-use development with the amount and type of open space depending upon size, scale, and nature of the development as determined by the planning commission. Approved open space may include, but is not limited to, commons, pocket parks, plazas, courtyards, landscape features, water fountains and features, and greenbelts. Open space shall be maintained by owners or the homeowners' association. The design shall encourage comfortable and safe pedestrian use, including landscaping, seating areas, and lighting as appropriate.
2. Standards for area, coverage, density, yard requirements, parking and screening for MX district uses shall be governed by the standards of the residential or commercial zoning districts most similar in nature and function to the proposed MX district use, as determined by the planning commission, and as modified by the approved general development plan. Standards for public improvements shall be governed by applicable

ordinances and laws. Exceptions to these standards by the planning commission and by the governing body are possible, when these bodies find that such exceptions encourage a desirable living environment and are warranted in terms of the total proposed development or unit thereof.

3. *Horizontal design*. Mixed-use projects can utilize horizontal design where commercial, office, and residential uses are designed as a single project, yet constructed in separate and distinct building footprints. The maximum density for horizontal design is 25 units per net acre.

4. *Vertical design*. Vertical design mixed-use uses design strategies where commercial, office, and residential uses are designed as a single project and constructed within the same building footprint. Vertical mixed-use promotes pedestrian-oriented commercial and retail uses on the main level and office and/or residential uses on the upper floors.

    a. Mixed use projects utilizing vertical mixed use are eligible for a residential density bonus of up to 30 percent (33 units per net acre) provided other applicable standards are met.

5. Maximum building height within the MX district shall be 45 feet. Building height is defined in PCC 1-3-2.

6. *Infrastructure minimum improvements*. Infrastructure minimum improvements shall be completed and in place before the city will issue a building permit for any lot within the proposed development.

    a. The city considers the following public and/or private infrastructure minimum improvements essential or required to meet the building code, fire code, flood or stormwater management provisions, street and access requirements.

        (1) All grading of roads and/or that portion of parking area (including pit run and road base) that serve as access to buildings as shown on the approved construction drawings, and all curb, gutter, and all utility trenches that lay inside the roadway;

        (2) All stormwater (excluding finish grades and landscaping), water, sewer, and other improvements that may be deemed essential necessary public safety improvements; and

        (3) Egress and ingress to provide acceptable and safe travel to and from each proposed structure in the approved development plan.

    b. Inspection. All required testing results and redline drawings must be turned in to the city before the minimum improvement inspection takes place. An inspection of the minimum

improvements shall be made, and the city engineer will certify to the city, in writing, that the minimum improvements are complete prior to the issuance of any building permits.

(1) Asphalt shall not be laid prior to a minimum improvement inspection approval.

7. *Improvement completion assurance; improvement warranty*.

a. Before an applicant conducts any development activity or records a plat, the applicant shall:

(1) Complete any required landscaping or infrastructure improvements; or

(2) Post an improvement completion assurance for any required landscaping or infrastructure improvements (does not include infrastructure that is required to be private) of 100 percent of the incomplete or unaccepted landscaping or infrastructure.

b. Improvement warranty. Up on acceptance of the landscaping and infrastructure improvements (does not include infrastructure that is required to be private) by the city, the applicant shall post a surety bond, letter of credit, or other similar security in an amount of ten percent of the lesser of the:

(1) Municipal engineer's original estimated cost of completion; or

(2) Applicant's reasonable proven cost.

E. *Architectural design and materials*. The treatment of building mass, materials and exterior finishes shall create an aesthetically pleasing building and site that is in character with the proportions of other surrounding developments. Proposed developments shall be designed with a common theme. The use of theme in a proposed development shall be reviewed and approved by the planning commission. Requirements applicable to all buildings are stated below:

1. All sides of buildings shall receive equal design consideration, particularly where exposed to vehicular or pedestrian traffic and adjacent properties. Facade shifts shall be encouraged on structures with a width greater than 50 feet.

2. Basic exterior construction materials shall be limited to no more than three types of materials per building and all buildings within the development shall possess a similar architectural theme. Building styles

shall be compatible with existing buildings in the MX district.

3. Buildings shall be designed to relate to grade conditions with a minimum of grading and exposed foundation walls.
4. Mechanical equipment shall be located or screened so as not to be visible from public and private streets. Screens shall be aesthetically incorporated into the design of the building whether located on the ground or on the roof. Screen materials shall be compatible with those of the building.
5. Plans for the exterior modifications to any existing structures must be submitted to the planning commission for approval and must meet the same requirements as all other structures within the MX district.
6. The primary entrance to a building shall be located facing the public street. Entrances at a building corner that faces the street may be used to meet this requirement.

F. *Buffers, fences, and walls*. The intent in having special buffer, fence, and wall requirements is to provide quality separation between incompatible commercial uses, and to provide physical and visual protection between commercial and residential uses.

1. Landscape buffers are preferred over fences and walls where a separation is desirable. A visually open look should be encouraged between similar uses. Visual screening is often more important than a physical separation and the planning commission may, at its own option, require special treatment of such areas.
2. Buffer treatment may be required whenever a change occurs between residential and nonresidential uses. Additional landscaping and screening may be required at the discretion of the planning commission within the setback which separates the uses. Fences or walls will be reviewed for their effectiveness in screening a view, and for their color and texture in relationship to building materials.
3. Where differing uses are to be developed adjacent to existing residential areas, special consideration shall be made to protect the privacy of residents and requirements shall be at the discretion of the planning commission. As a minimum, the negative effects of noise and artificial lighting shall be minimized to protect existing residents.
4. Service areas shall be properly screened. Outdoor lighting shall be designed to prevent exposure of light source to the view of residents. Facilities that require late night customers and activities shall be located away from residential areas to reasonably prevent the disruption of privacy.

G. *Parking areas*. Parking areas include parking garages and parking lots. Parking lots shall be considered as structures since they present a three-dimensional appearance when occupied. In mixed-use districts, the term "parking garage" means a multistory building that provides parking space, and can be underground. The term "parking lot" means an open area of hard-paved surface with designated parking spaces and access aisles. A parking garage is required for occupant residential parking; garages contained within individual units may be considered in lieu of a parking garage.

1. Parking areas shall be located in the central portions of the development and not along streets so they can service a variety of buildings. Location of parking shall be determined not only from its visual relationship to building and site, but also as it relates to safe convenient pedestrian and vehicular circulation patterns. The placing of building and parking elements on a site shall be evaluated by the planning commission on the basis of the following factors:

    a. Type of land use and structure.

    b. Building height and configuration.

    c. Relationship to other buildings both horizontally and vertically.

    d. Natural land features such as slopes and vegetation.

    e. Physical features such as rail lines, canals, and controlled ingress and egress.

    f. Visibility from vehicular approaches and distant highways.

    g. Parking locations are strongly encouraged on the side and to the rear of any proposed structures, with minimum parking between the front of the building and the street.

    h. Cooperation among neighboring land owners and tenants to share parking for the public and/or employees is encouraged. The availability of shared parking may be used as a justification for the approval of development design and configuration proposals that would otherwise not be approved.

2. Parking shall not occur adjacent to any public street except when:

    a. It has been established that such a location is needed or justified by other site or building entrance orientation.

    b. The use is restricted to visitors and/or key employees.

    c. Parking is 80 percent screened by fencing, walls, and/or landscaping from the highway or street by either depressing the paved areas or using elevated landscape berms.

d. A minimum of ten feet of landscaped screening consisting of mixed evergreen and deciduous trees shall surround the periphery of paved areas adjacent to buildings or property lines. The number of trees for this area shall be determined by a standard of one tree per every 200 square feet of landscaping required.

3. *Bicycle parking*. New construction of and additions to retail/commercial structures and multiunit dwellings must provide bicycle parking spaces.

    a. Retail/commercial structures must provide at least one space per 4,000 square feet or ten percent of the required off-street parking spaces, whichever is greater.

    b. Multiunit dwellings must provide at least one space per four units if units do not have a private garage or private storage space for bike storage, or ten percent of the required off-street parking spaces, whichever is greater.

    c. Bicycle spaces must accommodate bicycle storage medium security racks, in which the user may lock both the bicycle frame and the wheels. The spaces must be designed to prevent damage to the bicycle and to facilitate easy and secure storage without interference from or to adjacent bicycles. Bicycle racks or lockers must be anchored and of solid construction, resistant to rust, corrosion, hammers, and saws.

    d. Bicycle spaces must be compatible in design and function with the surrounding buildings and with surrounding street fixtures.

    e. Bicycle repair and maintenance station. A minimum of one bicycle repair station per development or one per 25 bicycle parking spaces, whichever is greater, must be installed.

    f. Bicycle facilities must be located in convenient, highly visible, active well-lighted areas, but shall not interfere with pedestrian movements and snow storage.

4. *Electric vehicle charging station requirements (EVCS)*.

    a. *Electric vehicle charging stations*. Electric vehicle charging stations are an allowed accessory use in all zoning districts.

    b. *Infrastructure*. An applicant shall provide electric vehicle charging station infrastructure for 20 percent of the first 100 required off-street parking spaces for multiunit dwellings and nonresidential development and for five percent of required off-street parking spaces above 100.

(1) The electric vehicle charging station infrastructure shall be identified on all construction documents submitted for review.

(2) To put future property owners on notice of the electric vehicle charging station infrastructure, an applicant shall provide information in covenants, conditions, and restrictions or other documents governing a homeowners' or master owners' association for the development and/or on the breaker panel.

c. *Installation*. An applicant shall install electric vehicle charging stations for five percent of required off-street parking spaces for multiunit dwellings and nonresidential development for the first 200 parking spaces.

(1) The first electric vehicle charging station installed shall be a dual-port with one charging station that is ADA accessible. This dual-port shall count as one charging station. Dual-port charging stations installed thereafter shall count as two charging stations.

d. *Standards*.

(1) Location. Electric vehicle charging stations shall not obstruct:

(A) Building access;

(B) Rights-of-way;

(C) Sidewalks or pathways;

(D) Parking space dimensions; or

(E) The sight distance triangle.

e. *Solar energy systems*. Solar energy systems may be installed on permanent parking area structures for electric vehicle charging stations in nonhistoric zoning districts. Solar energy systems shall be incorporated in the roof of the permanent structure and shall be mounted to the roof plane. Solar panels, solar devices, and solar energy systems and mounting equipment shall use nonreflective finishes, such as an anodized finish.

5. Parking requirements will be considered as minimum parking requirements. Residential units will require at least one and a half spaces per unit. Nonresidential uses may consider the parking available on

public streets as meeting the development requirements. When computing the parking requirements for the development, the total parking requirements shall be the sum of the specific parking space requirements of all of the buildings or uses in the development.

H. *Signage*. Proper design and placement of signs and their lighting is critical and shall be compatible with structures and uses. Permitted signs within the MX district shall be in compliance with this code, except that off-premises signs or billboards shall not be permitted. Typical retail signage is designed upon a pedestrian scale located eight to 12 feet above the sidewalk and placed on the storefronts.

I. *Mailboxes*. Developer shall be required to coordinate placement of clustered mailboxes with the United States Postal Service.

J. *Landscaping*. Landscaping shall comply with landscaping requirements in commercial districts and multifamily design standards, except as approved by the planning commission in the process of reviewing a MX district development.

1. Rooftop landscaping is considered a private amenity and is not eligible for inclusion in the required landscaping percentage.

K. *Service and loading areas*. Loading and refuse collections areas shall not be permitted between buildings and streets and must be screened from view of public and private streets. Streets shall not be used directly for loading, unloading, or refuse collection. Building and improvements upon lots must be designed to properly accommodate loading, unloading and refuse collection. Loading and refuse collection areas shall be properly screened meeting standards stated herein.

L. *General maintenance*. An overall maintenance schedule shall be implemented by property owners in maintaining all buildings, landscaping, fences, walls, drives, and parking lots (including surfacing and striping, signs, or other structures). The above shall be maintained in good and sufficient repair in a safe and aesthetically pleasing manner. Roads and pavements shall be kept true to line and grade and in good repair.

(Code 1998, § 10-4-4; Ord. No. 011-2009, 12-8-2009; Ord. No. 2015-007, 2-24-2015; Ord. No. 2018-005, 4-24-2018; Ord. No. 2019-001, 1-8-2019; Ord. No. 2021-0012, att. (10-4-4), 7-21-2021)

## 10-4-5 Public District

This zone provides for a wide range of public and recreational areas and activities, including public buildings, parks, and open space.

A. *Purpose*. The purpose and objectives of this zone are as follows:

1. To allow for public buildings and associated uses.
2. To enable land to be used for public open space or recreational purposes. Allowing a range of recreational settings and activities and compatible land uses; and to protect and enhance the natural environment for recreational purposes.

B. *Structures and facilities*. The following structures and facilities are permitted in the public district:

1. Public buildings and amenities.
2. Buildings and areas for storage of equipment and materials.
3. Restrooms (permanent and temporary).
4. Playground structures.
5. Athletic fields and amenities, including fences, batting cages, water activity areas, tennis courts, volleyball areas, athletic field and court lights, parking lots and lights, flags and lights, ballpark advertising banners, regulatory signs.
6. Natural amenities, such as grass, plants, trees, etc.
7. Cell towers may be allowed by conditional use.

C. *Permitted uses*. The following uses area permitted in the public district:

1. Public meetings, city-sponsored gatherings and events, such as city celebrations, concerts in the park, movies in the park, etc.
2. Social gatherings (indoor and outdoor). Some gatherings may require a special event application and permit.
3. Athletic events, competitive and organized recreational play and practice. Some events (including, but not limited to, fun runs, marathons, bike races, walks) may require a special event application and permit.
4. Kiosk and tent vendors associated with permitted events.
5. Food vending by contract with the city.
6. Rental of some city-owned facilities.
7. General, unorganized play and recreational use.

(Code 1998, § 10-4-5; Ord. No. 011-2009, 12-8-2009; Ord. No. 2015-007, 2-24-2015; Ord. No. 2018-005, 4-24-2018; Ord. No. 2019-001, 1-8-2019; Ord. No. 2021-012, 7-21-2021)

## 10-4-6 Life Cycle Residential Zone

A. *Purpose and intent*. It is the intent of this zone to guide development in accordance with the following goals:

1. Provide attractively landscaped neighborhoods with a mix of single-family, two-family and multifamily residential lots, structures, and associated uses. Areas with slopes in excess of 20 percent shall be subject to PCC chapter 10-5.
2. Provide an integrated design for the development of residential uses to allow flexibility and initiative in site and building design and location in accordance with an approved plan and imposed general requirements as specified by this chapter.
3. Maintain a residential character compatible with surrounding traditional single-family neighborhoods.
4. This chapter provides enabling authority and standards for the review, and approval of applications for life cycle residential (LCR) developments. The intent of this chapter is to provide an alternative to traditional subdivision design by encouraging innovation and offering flexibility in the design of residential developments, which will result in the enjoyment and benefit of the citizens of the city, both current and future.

B. *Compliance with standards*. Substantial compliance with the zone regulations and other provisions of this title in requiring adequate standards related to the public health, safety and general welfare shall be observed, without unduly inhibiting the advantages of large-scale site planning for residential and related purposes.

C. *Housing definitions*. The types of dwelling units permitted in an LCR zone shall have the definitions found in PCC 1-3-2.

D. *Zone location*. The LCR is intended to be located in many areas throughout the city. An LCR is a rezone.

E. *Permitted/conditional uses*.

1. The following uses are permitted in an LCR:
    a. Single-family detached residential housing.
    b. Single-family duplex housing.
    c. Single-family attached residential housing.
    d. Residential care facilities for eight persons or less.
    e. Apartments.

2. The city may conditionally permit uses in the LCR outside of those listed above. Such conditional uses are outlined in PCC chapter 10-6.

F. *Lot regulations*.

| | |
|---|---|
| Minimum project size | 2 acres |
| Minimum density [1] | 4 dwelling units per acre |
| Maximum density [1] | 12 dwelling units per acre |
| Minimum lot area [2] | |
| Single-family detached | 5,000 sq. ft. |
| Duplex | 7,500 sq. ft. |
| Minimum dwelling unit size (total, not per floor) | |
| Single-family attached | 800 sq. ft. per dwelling unit |
| Apartments | 750 sq. ft. per dwelling unit |
| Minimum lot width | |
| Single-family detached | 60 feet |
| Single-family attached (alley garage access) | 16 feet minimum, 20 feet average |
| Single-family attached (street garage access) | 16 feet minimum, 20 feet average |
| Duplex | 80 feet |
| Apartments | 60 feet, plus 10 additional feet per building. See subsection F.2 of this section |
| Setbacks (single-family detached, duplex) [3] | |
| Front yard (street garage access) | 20 feet minimum/35 feet maximum |
| Front yard (alley garage access) | 10 feet minimum |
| Rear yard | 10 feet minimum |
| Side yard | 7.5 feet minimum |
| Corner lot | 15 feet minimum on side adjacent to street |
| Setbacks (single-family attached, apartment) | See subsection F.3 of this section |
| Front yard (street garage | |

| | |
|---|---|
| access) | |
| Front yard (alley garage access) | |
| Rear yard | |
| Side yard | |
| Corner lot | |
| Maximum structure height | |
| Single-family detached and duplex | 35 feet |
| Single-family attached/apartments | 45 feet |
| Maximum lot coverage (single family/duplex) | 75 percent of the buildable area of the lot |
| Off-street parking | |
| Single-family detached | 4 per dwelling unit |
| Single-family attached | 2 per dwelling unit +.25 guest spot per unit |
| Duplex | 2 per dwelling unit |
| Apartments (0--1 bedroom) | 1.5 per dwelling unit + .25 guest spot per unit |
| Apartments (2+ bedrooms) | 2 per dwelling unit + .25 guest spot per unit |
| [1] Density = Housing units/(gross project acreage-acreage dedicated to rights-of-way) | |
| [2] Minimum lot area not included for single-family attached (townhome) and apartments, as all areas outside of the individual dwelling units are traditionally held in common ownership. Single-family attached (townhome) and apartments are required instead to have a minimum square footage requirement for each dwelling unit. | |
| [3] Setbacks are calculated from the front property line along a publicly dedicated road. In cases where the development is served by private roads, the front setback shall be calculated from the edge of the asphalt of the private road adjacent to the front plane of the home. | |

1. *Diversity of housing types*. No more than 50 percent of the total dwelling units in any project governed by this chapter shall be composed of any one type of housing. Regardless of project size, all projects are required to have a minimum of 20 percent of dwelling units in the project be composed of single-family detached housing

2. *Minimum lot width, apartments*. The required lot width for apartments shall be based on the number of buildings of apartments on the lot. Each lot containing apartments shall have a minimum of 50 feet lot width, plus an additional 60 feet for each building containing apartments.

3. *Setbacks for single-family attached and apartment housing*. No front or rear building setback is in place for single-family attached and apartment housing, provided that the development's open space is integrated throughout the project so that each group of single-family attached dwelling units and each building of apartments has a minimum of ten feet of landscaped open space on all sides, said landscaping being calculated from the front/rear plane of the dwelling unit or exterior wall of the apartment building, with the exception of one side of single-family attached which may be needed for alley garage access. Buildings whose front plane faces the front plane of another building shall have a minimum of 20 feet separation between the buildings' front planes.

4. All other development standards shall be complied with as outlined in the city subdivision regulations, PCC title 11, and engineering design standards.

G. *Development standards*. In addition to development standards contained herein, all projects developed under the LCR zone shall be developed and landscaped in accordance with the city multifamily design standards.

H. *Phasing*. As part of the application for a rezone to an LCR, developers shall be required to submit a proposed concept/phasing plan for the project. Said phasing plan shall tentatively outline what types and numbers of various housing types shall be constructed in each phase. The final phasing plan shall be incorporated into a master development agreement, which shall be prepared and developed by the city at the time an LCR project is given preliminary plat approval and shall be recorded against the property at that time. The phasing of an LCR project shall follow PCC 11-3-2B.4, with the exception of PCC 11-3-2B.4.d, which requires each phase to be a stand-along phase. However, no more than two phases of an LCR project may be constructed before at least 25 percent of the single-family detached must be presented for final plat approval.

(Code 1998, § 10-4-6; Ord. No. 011-2009, 12-8-2009; Ord. No. 2015-007, 2-24-2015; Ord. No. 2018-005, 4-24-2018; Ord. No. 2019-001, 1-8-2019; Ord. No. 2021-012, 7-21-2021)

## CHAPTER 10-5 SENSITIVE AREAS

10-5-1 Purpose
10-5-2 Sensitive Areas (NDSA) And Potentially Developable Sensitive Areas (PDSA)
10-5-3 Hazard Flood (HF)
10-5-4 Hazard Slope Area (HS)

10-5-5 Hazard Water Table Area (HW)
10-5-6 Hazard Earthquake Primary Fault Area (HE)
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10-5-8 Engineering Geotechnical Report
10-5-9 Disclosure Of Natural Hazard By Engineering Geotechnical Report
10-5-10 Disclosure Of Other Natural Hazards

## 10-5-1 Purpose

The purpose of this chapter is to protect the health, safety, and welfare of the present and future residents of the city and provide for safe, orderly and beneficial development in sensitive areas as defined and described below.

(Code 1998, § 10-5-1; Zon. Ord., 5-8-1991; Ord. No. 011-99, 4-13-1999; Ord. No. 001-2007, 1-9-2007; Ord. No. 002-2011, 4-26-2011; Ord. No. 016-2013, 9-10-2013; Ord. No. 2015-019, 8-25-2015; Ord. No. 2017-004, 3-28-2017; Ord. No.018-2021, att.(10-5-1), 10-20-2021)

## 10-5-2 Sensitive Areas (NDSA) And Potentially Developable Sensitive Areas, (PDSA)

A. *Nondevelopable sensitive areas and potentially developable sensitive areas*.

*Nondevelopable sensitive areas*. The following areas are nondevelopable. None of the acreage encumbered by any of the following sensitive areas may be considered for development density, and none of the areas may be built upon or within except for required public utility and facilities.

| | | |
|---|---|---|
| 1. | Jurisdictional wetlands | As defined by the US Army Corps of Engineers. |
| 2. | Steep slopes (hazard slope) | Where the rise or fall of the land is equal to or exceeds 30 percent over a horizontal distance of 50 feet or greater (see PCC 10-5-4) measured perpendicular to the contour lines. |
| 3. | Natural waterways or open water | Including, but not limited to, rivers, creeks, or streams. Identified as those areas where surface waters flow sufficiently to produce a defined channel or bed. A defined channel or bed is indicated by hydraulically sorted sediments or the removal of vegetation litter or loosely rooted vegetation by action of moving water. The channel or bed need not contain water year round. This definition is not meant to include storm water runoff devices or entirely artificial watercourse unless they are used to store or convey pass through stream flows naturally occurring prior |

| | | |
|---|---|---|
| | | to construction of such devices. Watercourses where the definition may apply are those that appear on the US geological survey quad maps excluding irrigation canals and ditches. For instance, an irrigation canal following a natural or jurisdictional watercourse would not be exempt but others would be exempt. |

*Potentially developable sensitive areas*.

The following areas are determined to be sensitive areas of the city and are subject to the requirements of this chapter. These areas may be built upon based on the requirements of this section and other applicable city, state, and federal requirements.

All acreage encumbered by any of the following sensitive areas may be considered for development density at the discretion of the city planning commission, based on recommendations from professional with expertise in the field being discussed.

| | | |
|---|---|---|
| 1. | Steep slopes | Where the rise or fall of the land is between 20 percent and 30 percent over a horizontal distance of 50 feet or greater. (See PCC 10-5-4) measured perpendicular to the contour lines. |
| 2. | Critical wildlife habitat areas | As identified by the US Fish and Wildlife Service Utah Ecological Services. |
| 3. | Geological hazard areas | Earthquake fault lines or areas prone to debris flows, landslides, high or extreme liquefaction potential, and rock falls as identified by the US Geological Survey (USGS); and high ground water area (see PCC 10-5-5). |
| 4. | Wildfire hazards areas | Areas of the city designated as having moderate to extreme potential for wildfire hazards as identified by the state fire marshal. |

B. *Development of sensitive areas*.

1. All requests for permits involving a lot, parcel or site located wholly or partially within a sensitive area shall comply with the following regulations before the issuance of any permit.
2. Land designated as nondevelopable sensitive area cannot be considered for development density. Generally, these lands are to remain undisturbed. They are extremely sensitive to development, and because of surface disturbance such as grading, filling, or vegetation removal have a high potential to threaten life or property, alternative development

should be considered.

a. Project approval within a nondevelopable sensitive area shall only be allowed after:

(1) An aquatic resources delineation report is submitted to the US Army Corps of Engineers (USACE). If the USACE determines wetlands in the report area are jurisdictional, any impact to wetlands from the proposed project is subject to Section 404 Clean Water Act (CWA) (jurisdictional wetlands).

(2) An engineering geologic hazard study, completed by a professional engineer and approved by the city engineer, establishes the site is stable for the proposed use and development (steep slope).

(3) Receiving written authorization from the state engineer. See U.C.A. 1953, § 73-3-29 (natural waterways or open water).

3. The lands within a potentially developable sensitive area may be developed and built upon, subject to the requirements of this section and other applicable city, state, and federal requirements.

4. Land within a potentially developable sensitive area may be considered for development density, based on:

a. Findings from an engineering geologic hazard study that has been approved by the city engineer (steep slope and geological hazard areas).

b. Data provided in the form of a flood insurance rate map (FIRM) and flood boundary-floodway maps (FBFM) and a flood insurance study (FIS)(floodplains).

c. A review from the local fire marshal's office or other fire authority designated by the city (wildfire hazard and wildland urban interfaced areas).

5. *New subdivisions*. In the case of new subdivisions, permit requirements for all public facilities (roads, sewer and water lines, etc.) within or containing a sensitive area shall be included in the final plat and construction drawing phases of the approval process and approval of the final plat shall serve as the permit for roads, sewer, and water line and similar utility and infrastructure uses within the sensitive areas.

6. *Individual lot in approved platted subdivisions*. Generally, lots within an approved platted subdivision may rely on the data and reports provided

as part of the subdivision process. If the city engineer and/or building official determines the site preparation for a structure on a lot will significantly change the composition of the lot (including, but not limited to, soils, grades, topography, vegetation, slope stability, etc.), the requirements for an individual lot not in an approved platted subdivision will apply.

7. *Individual lot not in an approved platted subdivision*. Any request for a zoning clearance involving a building permit for a lot that is not in an approved platted subdivision, which is in a sensitive area, shall be submitted with a site specific geotechnical report in accordance with Chapter 18 of the International Building Code (IBC) and any engineered construction plan which has been designed in compliance with the recommendations made within the geotechnical report for site excavations, grading, slope stability, structural components, landscaping, or any other geologic hazard mitigation specified.
    a. The zoning clearance and/or building permit may be issued administratively after it is determined that the lot may be developed in accordance with the intent of this chapter.
    b. The city engineer and/or the building official shall require the geotechnical firm to observe the excavation of the site and submit verification of soil conditions and suitability of the site for construction.
    c. If the only hazard associated with the site is high liquefaction, then the applicant must submit a soils report with recommendations for control of subsurface water as well as footing and foundation design.
    d. If the only hazard associated with the site is hazard slope and there will be no land disturbance within 30-feet of the slope falling away, the city engineer and/or building official may waive the geotechnical report requirement.
8. The designation of land as within a nondevelopable sensitive area or within a potentially developable sensitive area, and the application of other requirements imposed under the authority of this chapter, may be appealed to the city appeal authority, as provided for in PCC chapter 2-5.

(Code 1998, § 10-5-2; Ord. No. 011-99, 4-13-1999; Ord. No. 001-2007, 1-9-2007; Ord. No. 002-2011, 4-26-2011; Ord. No. 016-2013, 9-10-2013; Ord. No. 2015-019, 8-25-2015; Ord. No. 2017-004, 3-28-2017; Ord. No. 018-2021, att.(10-5-2), 10-20-2021)

**10-5-3 Hazard Flood (HF)**

A. An area which may be subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commercial and city services, extraordinary public expenditures for flood protection and relief and impairment of the tax base, all of which could adversely affect the public health, safety and general welfare of the citizens of the city. The hazard flood area (HF) is based upon the flood hazard data provided to the city by FEMA. Flood hazard data will be provided in the form of a flood insurance rate map (FIRM) (hereafter referred to as the "flood map") and a flood insurance study (FIS) (hereafter referred to as the "flood study").

B. *Building regulations*. No dwelling unit, accessory building, church, school, public building, health care facility, residence or nursing home for the elderly or handicapped, nor any commercial, retail or industrial structure shall be constructed within a minimum distance as determined by the city from the top inside edge of the bank of any natural or manmade waterway that is located in a hazard flood area (HF). Under no circumstance shall any structure be permitted or constructed within 30 feet of the top inside edge of the bank of any natural or manmade waterway that is located in a hazard flood area (HF).

C. See PCC chapter 10-16 for floodplain regulations.

(Code 1998, § 10-5-3; Ord. No. 011-99, 4-13-1999; Ord. No. 001-2007, 1-9-2007; Ord. No. 002-2011, 4-26-2011; Ord. No. 016-2013, 9-10-2013; Ord. No. 2015-019, 8-25-2015; Ord. No. 2017-004, 3-28-2017; Ord. No. 018-2021, att.(10-5-3), 10-20-2021)

**10-5-4 Hazard Slope Area (HS)**

A. An area where the natural slope of the land exceeds an average gradient through the building areas of 30 percent or greater over a horizontal distance of 50 feet or greater measured perpendicular to the contour lines is designated as a hazard slope area.

    1. No building or structure is to be located on any existing slope with an average gradient through the building area of 30 percent or greater. No building or structure is to be located within 30 feet of any slope falling away at a grade of 30 percent or greater without an engineering geologic study approved by the city engineer; and the footing and foundation plans must be designed and stamped by a licensed engineer.

    2. Project approval will only be allowed after an engineering geologic study, approved by the city engineer, establishes that the site is stable for the proposed use and development. At a minimum, the study shall include:

        a. Project description that includes the location, topography, drainage, vegetation, and discussion of previous work and discussion of field exploration methods.

        b. A slope stability analysis, with specific recommendations for cut

slope stability, seepage and drainage control or other design criteria to mitigate geologic hazards.

c. A detailed erosion control, revegetation and bank stabilization plan has been approved by the city engineer for any disturbances planned to existing slopes within a hazard slope area.

d. Discussion of any off-site geologic conditions that may pose a potential hazard to the site, or that may be affected by on-site development.

e. A detailed site plan for any buildings or earth moving activities (roads, driveways, sewer or water lines, etc.) that show the location of the planned facilities and how they would fit in with the existing slope and landscape of the area (as shown by before and after contours; see subsection A.2.f of this section) has been approved by the designated land use authority.

f. Contours should show the following:

| | |
|---|---|
| Natural ground | Unimproved earthen material existing at its original location of formation or deposition, which has not been reworked, mechanically altered, constructed or improved. |
| Existing conditions | The ground as it presently exists. |
| Proposed conditions | The ground after the earth moving activities have taken place. |

g. Signature and stamp of the engineer and/or geologist licensed as a professional engineer in the state.

(Code 1998, § 10-5-4; Ord. No. 011-99, 4-13-1999; Ord. No. 001-2007, 1-9-2007; Ord. No. 002-2011, 4-26-2011; Ord. No. 016-2013, 9-10-2013; Ord. No. 2015-019, 8-25-2015; Ord. No. 2017-004, 3-28-2017; Ord. No. 018-2021, att.(10-5-4), 10-20-2021)

**10-5-5 Hazard Water Table Area (HW)**

An area where potential groundwater levels may occur within 12 feet of the natural grade is designated as a hazard water table area (HW). Project approval in a HW area shall only be allowed after a feasibility study, signed and stamped by a licensed engineer and approved by the city engineer, establishes that the site is suitable for the proposed

development. The study should also provide detailed mitigation strategies for structures and protection against contamination by chemicals, fertilizers, pesticides, minerals, etc.

(Code 1998, § 10-5-5; Ord. No. 011-99, 4-13-1999; Ord. No. 001-2007, 1-9-2007; Ord. No. 002-2011, 4-26-2011; Ord. No. 016-2013, 9-10-2013; Ord. No. 2015-019, 8-25-2015; Ord. No. 2017-004, 3-28-2017; Ord. No. 018-2021, att.(10-5-5), 10-20-2021)

## 10-5-6 Hazard Earthquake Primary Fault Area (HE)

No construction shall be permitted in any identified hazard earthquake primary fault area (HE) and/or landslide area until adequate plans and engineering data are provided showing:

A. *Location of structures*. Where public facilities, occupancy facilities, large structures and sewer and water systems are to be constructed. Detailed geotechnical investigations may be required so as to accurately and very specifically locate faults and/or landslide areas;

B. *Lines and systems*. Any sewer lines or disposal systems located beneath culinary water facilities; and

C. *Ground response map*. Ground response maps identifying the area's most susceptible to ground motion.

(Code 1998, § 10-5-6; Zon. Ord., 5-8-1991; Ord. No. 011-99, 4-13-1999; Ord. No. 001-2007, 1-9-2007; Ord. No. 002-2011, 4-26-2011; Ord. No. 016-2013, 9-10-2013; Ord. No. 2015-019, 8-25-2015; Ord. No. 2017-004, 3-28-2017; Ord. No. 018-2021, att.(10-5-6), 10-20-2021)

## 10-5-7 Hazard Wildfire Area

Areas having moderate to extreme potential for wildfire hazards are designated as the hazard wildfire areas. Within the hazard wildfire area:

A. Development shall provide for ready access to fire and other emergency equipment and for routes of escape to safely handle evacuations.

B. Measures to mitigate wildfire hazards and risks may be required by the appropriate land use authority based on the recommendation and review of the fire marshal.

C. Property owners are encouraged to implement the following:

    1. Construct the roof with fire-resistant materials like tile or metal, asphalt or fiberglass shingles. Clean roof surfaces and gutters of pine needles, leaves, branches, etc., regularly to avoid accumulation of flammable materials.

2. Inspect the property regularly, clearing dead wood and dense vegetation from at least 30 feet around the home. Rake piles of leaves and twigs. If on a hill, more space will be needed to protect the home. A fuel break should be maintained around all structures.
3. Move firewood away from the house or attachments like fences or decks.
4. Cover vents with wire mesh no larger than one-eighth of an inch to keep sparks from entering the home through vents.
5. Driveways should be wide enough for firefighting equipment to maneuver.

(Code 1998, § 10-5-7; Ord. No. 011-99, 4-13-1999; Ord. No. 001-2007, 1-9-2007; Ord. No. 002-2011, 4-26-2011; Ord. No. 016-2013, 9-10-2013; Ord. No. 2015-019, 8-25-2015; Ord. No. 2017-004, 3-28-2017; Ord. No. 018-2021, att.(10-5-7), 10-20-2021)

**10-5-8 Engineering Geotechnical Report**

For those areas identified as an active or potential mapped earthquake fault and landslide areas, or areas determined by review to contain geologically unstable conditions, and all for areas which include a hazard slope area (HS) or hazard primary fault area (HE), development may be permitted by the designated land use authority upon the review and approval of an engineering geotechnical report that complies with the provisions of this section. If a conditional use permit is required, the engineering geotechnical report shall be considered in the review of the conditional use permit application.

A. The site-specific soil/geologic report by a qualified geotechnical engineer shall identify all geologic hazards, whether on or off site, if such hazards affect the particular property, including the following hazards, unless determined prior to the preparation of the report by the city engineer that the specific potential hazard or hazard does not need to be considered in the report:
    1. Flood history and potential; proximity to known canals, lakes, streams and alluvial fan flooding;
    2. Definition of any areas of deformation with respect to active faults and recommended setbacks therefrom;
    3. Evidence for other mass movement of soil and rock (landslides, debris flows, rock falls);
    4. Identification of anomalies of the terrain or characteristics of the geological materials which would have any potential impact upon the use of the site;
    5. Determination of groundwater characteristics; and
    6. Uncontrolled fill material within the building envelope of a lot or other

uncompacted soils.

B. The report shall contain written recommendations for construction of structures and avoidance or mitigation of the hazards. Land drains alone through private property are not allowed and are discouraged through public property because long-term maintenance of drains cannot be guaranteed.

C. The report shall consider and contain data regarding the nature, distribution, and strength of soils within the project area. The soil report shall include a unified classification of all soils with an estimate of susceptibility to erosion, plasticity index, liquid limit, shrink-swell potential, and general suitability for development.

D. The report shall contain an estimate of the likely highest level of the water table considering the long-term effects of development and irrigation.

E. The report shall include a statement by the qualified geotechnical engineer preparing the report that the safety and integrity of the proposed building or structure is not compromised by potential geologic hazards and that the proposed building or structure, as designed and proposed, can be built in a manner that complies with the soils, footings and foundation requirements of the applicable building code.

F. After the application is received by the city, the geologic and soil report will be reviewed by staff and, if the report finds that geologic hazards exist, the report will be reviewed by other geotechnical advisors which may include the Utah Geologic Survey (UGS). If after review, the geotechnical advisors concur with the geologic and soil report and the proposed remedial measures submitted by the applicant, the item will be forwarded to the land use authority designated to review the application for a conditional use permit.

G. The required reports and the plans to address the concerns set forth in those reports shall be stamped and approved by a licensed professional engineer. If the city engineer does not agree with the applicant's geologic and soils report, the city and the applicant for a conditional use permit may utilize the procedure for resolving such disputes found in U.C.A. 1953, § 10-9a-703(2) for the appeal of a determination made under a municipality's geologic hazards ordinance.

H. As provided in PCC 10-3-5E.4, a conditional use permit may be denied, and use of the property, therefore, prohibited, if geologic hazards associated with the property cannot be substantially mitigated by the imposition of reasonable conditions and/or the requirements of the geologic and soil report and the provisions of the applicable building code related to soils, footings, and foundations are not met.

(Code 1998, § 10-5-8; Ord. No. 011-99, 4-13-1999; Ord. No. 001-2007, 1-9-2007; Ord. No. 002-2011, 4-26-2011; Ord. No. 016-2013, 9-10-2013; Ord. No. 2015-019, 8-25-2015; Ord. No. 2017-004, 3-28-2017; Ord. No. 018-2021, att.(10-5-8), 10-20-2021)

## 10-5-9 Disclosure Of Natural Hazard By Engineering Geotechnical Report

Wherever a potential natural hazard is identified by a required geotechnical report under this chapter, the owner of such parcel shall record a restrictive covenant running with the land in a form satisfactory to the city prior to the approval of any development or subdivision of such parcel, which shall include the following:

A. Notice of the existence and availability of the engineering geotechnical report that identifies the natural hazards for public inspection in the city office; and

B. An agreement by the owner of the parcel and any successor in interest to comply with any conditions set by the city to minimize potential adverse effects of the natural hazard.

(Code 1998, § 10-5-9; Ord. No. 011-99, 4-13-1999; Ord. No. 001-2007, 1-9-2007; Ord. No. 002-2011, 4-26-2011; Ord. No. 016-2013, 9-10-2013; Ord. No. 2015-019, 8-25-2015; Ord. No. 2017-004, 3-28-2017; Ord. No. 018-2021, att.(10-5-9), 10-20-2021)

## 10-5-10 Disclosure Of Other Natural Hazards

At any time after the designation of a particular parcel of land, or any portion thereof, as within a sensitive land area, the city may cause to be recorded at the office of the county recorder a notice related to that land stating that the land lies within a sensitive land area. The notice may state that the construction of buildings and improvements on that land is subject to the provisions of the city ordinances related to sensitive lands, including a potential requirement to obtain a conditional use permit prior to the construction of a home or other buildings, structures or improvements on the land. Use of the land may not be allowed until a professional review is conducted, as provided in city ordinance, and reports are submitted that establish that any proposed home, building, or other structures or improvements to be erected upon the land can be built in compliance with relevant building codes and appropriate soil, flooding, and earthquake requirements. If qualified professionals cannot establish that a proposed use of the land can be conducted in a manner that complies with the health and safety provisions of the building code and other relevant standards, the proposed use of the land may be prohibited.

(Code 1998, § 10-5-10; Ord. No. 011-99, 4-13-1999; Ord. No. 001-2007, 1-9-2007; Ord. No. 002-2011, 4-26-2011; Ord. No. 016-2013, 9-10-2013; Ord. No. 2015-019, 8-25-2015; Ord. No. 2017-004, 3-28-2017; Ord. No. 018-2021, att.(10-5-10), 10-20-2021)

# CHAPTER 10-6 USE REGULATIONS

10-6-1 Use Chart
10-6-2 Classification Of New And Unlisted Uses

## 10-6-1 Use Chart

Land and buildings in each of the zoning districts may continue to be used, but no land shall hereinafter be used, and no building or structure shall hereinafter be erected, altered or converted which is arranged, designed or used for other than those uses specified for the district in which it is located as set forth by the following use chart and indicated by:

P = Permitted use.

C = Conditional use permit required.

X = Special review required.

I = Allowed only as a conditional use when incidental to a retail business with more than 15,000 square feet of floor area and:

- Incidental to a single use (i.e., a bank is incidental to retail business, not multiple businesses);
- A department store, grocery store, health fitness center, or other retail business may have more than one incidental use associated therewith;
- The combined total of all incidental uses associated with a building may not exceed 12 percent of the gross square footage of the building or 6,000 square feet, whichever is less (administrative offices, restrooms, storage areas, and other enmities necessary for the operation of the retail business are not considered incidental uses);
- Cannot be a stand-alone building (an unoccupied drive through structure and/or fueling pads will be counted as part of the 12 percent but not included in the 6,000 square foot cap of the incidental use);
- Must share the same public entrance;
- A permitted business is not considered an incidental use; and
- Incidental use must have its own business license unless owned and operated by the primary retail business.

(absence of symbol) = Not permitted.

If a use is not specifically designated, it is prohibited.

| | | AGR | SFE | SFL | SFT | SFR | SFM | SFH | SMH | MFR | MFM | MFH | CGD | CHD | MXD | PUB |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| A. | Residential Uses | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | |

| | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | Single-family, detached | P | P | P | P | P | P | P | P | P | | | | | P | |
| 2 | Single-family, attached | | | | | P | P | P | | P | P | P | | | P | |
| 3 | Dwelling, two-family | | | | | | | | | P | P | P | | | P | |
| 4 | Dwelling, three-family | | | | | | | | | P | P | P | | | P | |
| 5 | Dwelling, four-family | | | | | | | | | P | P | P | | | P | |
| 6 | Dwelling, multifamily | | | | | | | | | | | P | | | P | |
| 7 | Manufactured/modular | P | P | P | P | P | P | P | P | P | P | P | | | P | |
| 8 | Mobile/trailer home | | | | | | | | P | | | | | | | |
| 10 | Cluster development | | | C | C | C | C | C | C | C | C | C | | | C | |
| 11 | Inner block development | | C | C | C | | | | | | | | | | C | |
| 12 | Planned unit development | | C | C | C | C | | C | C | C | P | P | | | C | |
| 13 | Bed and breakfast | C | C | C | C | C | C | C | | C | C | C | C | | C | |
| 14 | Hotel/motel | | | | | | | | | | | C | C | | C | |
| 15 | Lodginghouse | | | | | | | | | C | C | C | C | | C | |
| 16 | Residence for persons with disabilities | | P | P | P | P | P | P | P | P | P | P | | | C | |
| 17 | Residential facility for the aged | | P | P | P | P | P | P | P | P | P | P | | | C | |
| B. | Accessory/Incidental Uses | | | | | | | | | | | | | | | |

| | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | Accessory building | P | P | P | P | P | P | P | | P | P | P | P | P | P | |
| 2 | Accessory apartment unit | P | P | P | P | P | P | P | | | | | | | | |
| 3 | Accessory dwelling unit | P | P | P | P | P | P | P | | | | | | | P | |
| 4 | Accessory farm building | P | P | P | P | P | | | | | | | | | | |
| 5 | Off-street parking incidental to main use | P | P | P | P | P | P | P | | P | P | P | P | P | P | |
| 6 | Private swimming pool | P | P | P | P | P | P | P | | P | P | P | P | | P | |
| C. | Governmental/Institutional/Special Services | | | | | | | | | | | | | | | |
| 1 | Church | P | P | P | P | P | P | P | P | P | P | P | | | | |
| 2 | Ministers, rabbis, priests, and other similar ordained religious work | P^ | P^ | P^ | P^ | P^ | P^ | P^ | P^ | P^ | P^ | P^ | | | | |
| 3 | Community center | P | P | P | P | P | P | P | P | P | P | P | P | | | |
| 4 | Day care nursery | C^ | C^ | C^ | C^ | C^ | C^ | C^ | C^ | C^ | C^ | C^ | P | I or C* | C | |
| 5 | Preschool | C^ | C^ | C^ | C^ | C^ | C^ | C^ | C^ | C^ | C^ | C^ | | | C | |
| 6 | Public park | | P | P | P | P | P | P | P | P | P | P | | | P | P |
| | Private lessons / public facility | | | | | | | | | | | | | | | C |
| 7 | Public School | P | P | P | P | P | P | P | P | P | P | P | | | | |
| 8 | Public building | P | P | P | P | P | P | P | P | P | P | P | P | | P | P |

| | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| D. | Utility and Related Service | | | | | | | | | | | | | | | |
| 1 | Electric substation | C | C | | | | | | | | | | | | | |
| 2 | Electric power plant | C | | | | | | | | | | | | | | |
| 3 | Fire station | P | P | P | P | P | P | P | P | P | P | P | | | | |
| 4 | Gas meter station | P | P | P | P | P | P | P | P | P | P | P | | | | |
| 5 | Irrigation supply | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| 6 | Utility distribution lines | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| 7 | Radio/TV/cellular tower | P | | | | | | | | | | | C | | | C |
| 8 | Sewage/water pumping station | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| 9 | Telephone utilities | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| 10 | Public utilities, other | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| 11 | Utility shop, storage and bldgs. | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| 12 | Water treatment plant | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| 13 | Water well reservoir or storage tank | P | P | P | P | P | P | P | P | P | P | P | P | P | P | P |
| E. | Professional Services | | | | | | | | | | | | | | | |
| 1 | Business office, medium impact | C^ | C^ | C^ | C^ | C^ | C^ | C^ | C^ | C^ | C^ | C^ | | | P | |

| | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2 | Business office, low impact | P ^ | P ^ | P ^ | P ^ | P ^ | P ^ | P ^ | P ^ | P ^ | P ^ | P ^ | | | P | | |
| 3 | Business office, general | | | | | | | | | | | | P | I or C * | P | | |
| 4 | Clinic, dental | | | | | | | | | | | | P | I or C * | P | | |
| 5 | Clinic, medical | | | | | | | | | | | | P | I or C * | P | | |
| 6 | Clinical social worker | | | | | | | | | | | | P | I or C * | P | | |
| 7 | Office for single physician, dentist, or chiropractor | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | P | I or C * | P | | |
| 8 | Licensed professional | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | P | I or C * | P | | |
| 9 | Mortuary | C ^ | C ^ | | | | | | C ^ | C ^ | C ^ | C ^ | P | | P | | |
| 10 | Optical shop | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | P | I or C * | P | | |
| 1 | | C | C | C | C | C | C | C | C | C | C | C | | I o | | | |

| | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | Pharmacy | ^ | ^ | ^ | ^ | ^ | ^ | ^ | ^ | ^ | ^ | ^ | P | r C * | P | |
| 12 | Private school, teaching, tutoring (1 or 2 students at a time) | P ^ | P ^ | P ^ | P ^ | P ^ | P ^ | P ^ | C ^ | C ^ | C ^ | C ^ | | | | |
| 13 | Private school, teaching | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | P | | P | |
| 14 | Studio: art, dance, drama, photography, etc. (1 or 2 students at a time) | P ^ | P ^ | P ^ | P ^ | P ^ | P ^ | P ^ | C ^ | C ^ | C ^ | C ^ | | | | |
| 15 | Studio: art, dance, drama, photography, etc., and tutoring | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | P | l o r C * | P | |
| 16 | Dressmakers, seamstresses, tailors, upholsters, and related occupations | P ^ | P ^ | P ^ | P ^ | P ^ | P ^ | P ^ | C ^ | C ^ | C ^ | C ^ | | | | |
| 17 | Artists, artisans, craftsman, sculptors, authors, small crafts and handcrafts, and related artistic work | P ^ | P ^ | P ^ | P ^ | P ^ | P ^ | P ^ | C ^ | C ^ | C ^ | C ^ | | | | |
| 18 | Veterinarian^^ | C ^ | C ^ | C ^ | | | | | C ^ | C ^ | C ^ | C ^ | C | | P | |
| F. | Retail/Related Uses | | | | | | | | | | | | | | | |
| 1 | Adult oriented business | | | | | | | | | | | | C | | | |
| 2 | Food preparation, catering, etc. | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | P | P | P | C |
| 3 | Bakery/confectionery sales | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | P | P | P | |
| 4 | Barber/beauty shop | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | P | P | P | |
| 5 | Book/stationery store | | | | | | | | | | | | p | p | P | |
| 6 | Computer store | | | | | | | | | | | | p | p | P | |

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 7 | Department store | | | | | | | | | | | | p | p | P | |
| 8 | Florist store | | | | | | | | | | | | p | p | P | |
| 9 | Furniture store | | | | | | | | | | | | p | p | P | |
| 10 | Specialty store/shop | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | | P | | |
| 11 | Grocery store | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | p | p | P | |
| 12 | Hardware store | | | | | | | | | | | | p | p | P | |
| 13 | Home & garden store | | | | | | | | | | | | p | p | P | |
| 14 | Laundry/dry cleaning store | | | | | | | | | | | | p | p | P | |
| 15 | Laundry services | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | | | | |
| 16 | Liquor store | | | | | | | | | | | | p | p | P | |
| 17 | Music store | | | | | | | | | | | | p | p | P | |
| | Paint store | | | | | | | | | | | | p | p | P | |
| 18 | Pet grooming | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | P | P | P | |
| 19 | Pet store | | | | | | | | | | | | p | p | P | |
| 20 | Restaurant/fast food | | | | | | | | | | | | p | p | P | |
| 21 | Shoe repair | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | p | p | P | |
| 2 | | C | C | C | C | C | C | C | C | C | C | C | | | | |

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2 | Small appliance repair | ^ | ^ | ^ | ^ | ^ | ^ | ^ | ^ | ^ | ^ | ^ | p | p | C | |
| 23 | Variety store | | | | | | | | | | | | p | p | P | |
| 24 | Commercial complex | | | | | | | | | | | | p | p | P | |
| 25 | Shopping center | | | | | | | | | | | | p | p | P | |
| 26 | Tire sales, retail | | | | | | | | | | | | C | P | | |
| 27 | Yard sales on an occasional basis | P^ | P^ | P^ | P^ | P^ | P^ | P^ | P^ | P^ | P^ | P^ | | | | |
| G. | Commercial/Related Uses | | | | | | | | | | | | | | | |
| 1 | Auto sales – new & used | | | | | | | | | | | | P | P | | |
| 2 | Auto sales – used | | | | | | | | | | | | | | | |
| 3 | Auto wash | | | | | | | | | | | | P | P | | |
| 4 | Bank/financial | | | | | | | | | | | | C | I or C* | P | |
| 5 | ^^^Nondepository Financial Institutions | | | | | | | | | | | | P | I or C* | | |
| 6 | Building materials | | | | | | | | | | | | P | P | | |
| 7 | Dance hall | | | | | | | | | | | | | | | |
| 8 | Gasoline/petroleum storage (not bulk) | C | C | C | C | C | | | | | | | C | C | | |

| | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 9 | Gasoline sales/service | | | | | | | | | | | | P | P | | |
| 10 | Fitness center commercial (gym) | | | | | | | | | | | | P | P | P | |
| 11 | Convenience store | | | | | | | | | | | | P | P | | |
| 12 | Night club | | | | | | | | | | | | | | | |
| 13 | Print shop/sales | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | | | | | P | P | P | |
| 14 | Recreation/entertainment | | | | | | | | | | | | P | I or C * | | |
| 15 | Research facilities | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | | | | P | | | | |
| 16 | Theater | | | | | | | | | | | | P | P | P | |
| 17 | Vehicle storage | | | | | | | | | | | | | | | |
| H. | Industry and Manufacturing | | | | | | | | | | | | | | | |
| 1 | Auto repair | | | | | | | | | | | | | C | C | |
| 2 | Paint and body shop | | | | | | | | | | | | | C | | |
| 3 | Bldg. maintenance & repair services | | | | | | | | | | | | C | | | |
| 4 | Cabinet shop | | | | | | | | | | | | | | | |
| 5 | Countertop shop | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | |

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 6 | Clothing manufacturer | | | | | | | | | | | | | | | |
| 7 | Furniture manufacturer | | | | | | | | | | | | | | | |
| 8 | General contractor yard | | | | | | | | | | | C | | | | |
| 9 | Landscape services | | | | | | | | | | | | | | | |
| 10 | Yard/lawn/snow removal maintenance | C ^ | C ^ | C ^ | C ^ | C ^ | | | | | | C | | | | |
| 11 | HVAC shop/sales | | | | | | | | | | | C | | | | |
| 12 | Ice cream plant | | | | | | | | | | | | | | | |
| 13 | Lumber yard | | | | | | | | | | | P | | | | |
| 14 | Paint shop | | | | | | | | | | | P | | | | |
| 15 | Welding/machine shop | | | | | | | | | | | C | | | | |
| 16 | Wholesale outlet/storage and sales | | | | | | | | | | | P | | | | |
| 17 | Light manufacturing | | | | | | | | | | | C | | | | |
| 18 | Motorcycle, snowmobile, ATV, etc., repair | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | C ^ | | | | | | | |
| I. | Agriculture and Related Uses | | | | | | | | | | | | | | | |
| 1 | Beekeeping: 4 or less colonies | P ^ ^ | P ^ ^ | P ^ ^ | P ^ ^ | P ^ ^ | P ^ ^ | P ^ ^ | P ^ ^ | P ^ ^ | P ^ ^ | P ^ ^ | P ^ ^ | P ^ ^ | P ^ ^ | P ^ ^ |
| 1A | Beekeeping: More than 4 colonies | C ^ ^ | C ^ ^ | C ^ ^ | C ^ ^ | C ^ ^ | C ^ ^ | C ^ ^ | C ^ ^ | C ^ ^ | C ^ ^ | C ^ ^ | C ^ ^ | C ^ ^ | C ^ ^ | C ^ ^ |
| | | P | P | P | P | P | | | | | | | | | | |

| | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 2 | Breeding or raising animals for sale, food, pleasure, or profit | ^^ | ^^ | ^^ | ^^ | ^^ | | | | | | | | | | |
| 3 | Keeping dogs, cats, fish, or exotic caged birds | P^^ | P^^ | P^^ | P^^ | P^^ | P^^ | P^^ | P^^ | P^^ | P^^ | P^^ | C | I | P | |
| 4 | Commercial crop production | P | P | P | P | P | | | | | | | | | | |
| 5 | Dairy business | P^^ | P^^ | P^^ | | | | | | | | | | | | |
| 6 | Feed lot | C | | | | | | | | | | | | | | |
| 7 | Gardens and orchards for home use | P | P | P | P | P | P | P | P | P | P | P | | | P | |
| 8 | Ranch/farm production and operation | P | P | | | | | | | | | | | | | |
| 9 | Garden and greenhouse plants and produce for wholesale or retail sales | C^ | C^ | C^ | C^ | C^ | C^ | C^ | C^ | | | | | | | |
| 10 | Gasoline/petroleum storage (not bulk) | C | | | | | | | | | | | | | | |

^Use is allowed as a permitted or conditional use only if it is a home business, child care business or nonconforming business that complies with PCC chapter 3-4.

^^Must conform to PCC chapter 5-1.

^^^Nondepository financial institutions are businesses that conduct transactions of cashing a check for consideration or extending a deferred deposit loan and shall include any other similar types of businesses licensed by the state pursuant to the check cashing and deferred deposit lending registration act. Nondepository financial institutions shall be limited by the population of all residents in the city. The total population figures shall be based on the US Census Bureau's annual estimates. Only one nonfinancial institution shall be allowed for a population of zero to 7,000, and one per 7,000 thereafter.

*The following conditions apply to a nonsales tax generating business (NSTGB) located in the CHD zone:

A. The combined total of all NSTGB will be limited to no more than 15 percent of the

combined existing gross leasable space (GLS) of buildings in the project area; the GLS of a building is based on the square footage of the ground floor; upper levels are not included in the combined totals for or against the 15 percent limitation.

B. The project area is the approved preliminary plat.

C. Incidental uses in the project area are not computed in the 15 percent limitation.

D. NSTGB may be in a free-standing building of its own or part of a multitenant building with separate outside entrances for the public.

(Code 1998, § 10-6-1; Ord. No. OM 001-002, 2-27-2001; Ord. No. OM 015-2004; Ord. No. OM 016-2004, 5-11-2004; Ord. No. OM 020-2004; Ord. No. OM 007-2006, 5-23-2006; Ord. No. 014-2013, 9-10-2013; Ord. No. 019-2013, 10-8-2013; Ord. No. 2015-011, 3-24-2015; Ord. No. 2015-007, 2-24-2015; Ord. No. 2015-021, 12-8-2015; Ord. No. 2016-016, 7-12-2016; Ord. No. 2019-019, 10-22-2019; Ord. No. 2019-023, 11-12-2019)

### 10-6-2 Classification Of New And Unlisted Uses

A. *Request; referral*. Requests for a new use or unlisted conditional use shall be referred to the planning commission chairperson for consideration by the planning commission. Applications for a new use and unlisted conditional use will be processed in accordance with the procedures listed in PCC 10-3-5C to determine if such use should be permitted and added to the current list of approved uses. The planning commission shall forward to the city council a recommendation to accept or reject the request. The planning commission shall also forward, with any recommendation for approval of a new use, the necessary ordinance amendments to implement the use.

B. *City council action*. The city council will approve or disapprove the recommendation. Upon approval, the process will be started to amend the necessary city ordinances in accordance with the procedures outlined for ordinance amendments and changes.

(Code 1998, § 10-6-2; Ord. of 7-23-1996; Ord. No. 014-2013, 9-10-2013; Ord. No. 019-2013, 10-8-2013; Ord. No. 2015-011, 3-24-2015; Ord. No. 2015-007, 2-24-2015; Ord. No. 2015-021, 12-8-2015; Ord. No. 2016-016, 7-12-2016; Ord. No. 2019-019, 10-22-2019; Ord. No. 2019-023, 11-12-2019)

## CHAPTER 10-7 NONCONFORMING USES AND NONCOMPLYING STRUCTURES

10-7-1 Nonconforming Use Or Noncomplying Structure May Be Continued
10-7-2 Termination Of Nonconforming Use Due To Abandonment
10-7-3 Nonconforming Uses When Structure Uninhabitable Or Demolished
10-7-4 Maintenance And Changes Of Structures Or Uses

**State law reference**—Nonconforming uses and noncomplying structures, U.C.A. 1953, § 10-9a-511.

## 10-7-1 Nonconforming Use Or Noncomplying Structure May Be Continued

A. Except as provided in this section, a nonconforming use or noncomplying structure may be continued by the present or a future property owner.

B. A nonconforming use may be extended through same building, provided no structural alteration of the building is proposed or made for the purpose of the extension.

C. For the purposes of this section, the addition of a solar energy device to a building is not a structural alteration.

(Code 1998, § 10-7-1; Ord. No. 004-2007, 1-23-2007)

## 10-7-2 Termination Of Nonconforming Use Due To Abandonment

A nonconforming use shall be terminated if its use is abandoned:

A. Abandonment shall be presumed to have occurred if:

1. A majority of the primary structure associated with the nonconforming use had been voluntarily demolished without prior written agreement with the municipality regarding an extension of the nonconforming use;
2. The use has been discontinued for a minimum of one year; or
3. The primary structure associated with the nonconforming use remains vacant for a period of one year.

B. The property owner may rebut the presumption of abandonment under subsection A of this section and shall have the burden of establishing that any claimed abandonment under subsection A of this section has not in fact occurred.

(Code 1998, § 10-7-2; Ord. No. 004-2007, 1-23-2007)

## 10-7-3 Nonconforming Uses When Structure Uninhabitable Or Demolished

The reconstruction or restoration of a noncomplying structure shall be prohibited, and a nonconforming use of a structure shall be terminated if:

A. The structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six months after written notice to the property owner that the structure is uninhabitable and that the noncomplying structure or nonconforming use will be lost if the structure is not

repaired or restored within six months; or

B. The property owner has voluntarily demolished a majority of the noncomplying structure or the building that house the nonconforming use.

(Code 1998, § 10-7-3; Ord. No. 004-2007, 1-23-2007)

### 10-7-4 Maintenance And Changes Of Structures Or Uses

A. *Repairs and alterations*. A noncomplying structure or a building housing a nonconforming use may be repaired or altered, provided that the degree of nonconformity or noncompliance is not increased by the repair or alteration.

B. *Restoration of damaged buildings*. A noncomplying use or the nonconforming use of a structure that is involuntarily destroyed in whole or part due to fire or other calamity may continue unless the structure or use has been abandoned. Said restoration shall not increase the degree of nonconformity.

C. *Change of nonconforming use*. The nonconforming use of a structure may not be changed, except to a conforming use. Where such change is made, the use shall not thereafter be changed back to a nonconforming use.

(Code 1998, § 10-7-4; Ord. No. 004-2007, 1-23-2007)

## CHAPTER 10-8 AREA REGULATIONS AND PARKING REQUIREMENTS

10-8-1 Area Regulations
10-8-2 Lot Size
10-8-3 Setbacks
10-8-4 Height
10-8-5 Commercial Zoned Districts; Site Development
10-8-6 Parking Regulations
10-8-7 Site Requirements For Seasonal Business Facility, Semi-Permanent Business Facility, And Temporary Business Facility
10-8-8 Low Power Towers And Antennas For Radio Communication
10-8-9 Design Standards For Attached And Multifamily Residential Development

### 10-8-1 Area Regulations

Except as herein provided, no building, structure or part thereof shall be erected, altered or converted for any use permitted in the district in which it is located unless it is in conformance with all of the minimum regulations specified on the space requirement chart show below.

SPACE REQUIREMENT CHART

| | *AGR* | *SFE* | *SFL* | *SFT* | *SFR* | *SFM* | *SFH* | *SMH* |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Min. lot area, square feet | 5 ac | 1 ac | 20,500 | 12,000 | 10,000 | 8,000 | 6,000 | 5,000 |
| Min. lot width (measured at setback line) | 150 | 120 | 100 | 95 | 80 | 70 | 60 | 50 |
| Min. lot area increase ea. add'l. unit, square feet | See PCC chapter 10-13 | | | | | | | |
| Max. units/ac excluding ROW, infrastructure^ | 0.2 | 1 | 2.13 | 3.75 | 4.5 | 5.5 | 5.5 | 8.5 |
| Min. lot area per ea. twin home, square feet^^ | | | | | 6,000 | 6,000 | | |
| Min. lot width, each unit (measured at setback line) | | | | | 47.5 ft. | 47.5 ft. | | |
| | | | | | | | | |
| **Setbacks** | | | | | | | | |
| Principal uses | | | | | | | | |
| Front yard, ft. | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 |
| Side yard, interior | 10 | 10 | 10 | 10 | 10* | 10 | 7.5 | 7.5 |
| Side yard, street | 20 | 20 | 20 | 20 | 20 | 20 | 15 | 15 |
| Rear yard | 15 | 15 | 15 | 15 | 15 | 15 | 15 | 10 |
| | | | | | | | | |
| Detached Accessory Uses | | | | | | | | |
| Front yard, ft. | 25 | 30 | 30 | 30 | 30 | 25 | 25 | 20 |
| Side yard, interior | 10 | 5 | 5 | 5 | 5 | 5 | 5 | 5 |
| Side yard, street | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 |
| Rear yard | 10 | 5 | 5 | 5 | 5 | 5 | 5 | 5 |
| | | | | | | | | |
| Detached Accessory Building (Small) | | | | | | | | |
| Front yard, ft. | 25 | 30 | 30 | 30 | 30 | 25 | 25 | 20 |
| Side yard, interior | Must be placed in such a manner that runoff from the roof does not spill onto adjacent property. | | | | | | | |
| Side yard, street | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 |
| Rear yard | Must be placed in such a manner that runoff from the roof does not spill onto adjacent property. | | | | | | | |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |
| Distance between residential structures on same lot | 15 | 15 | 15 | 15 | 15 | 15 | 15 | 10 |
| | | | | | | | | |
| **Height** | | | | | | | | |
| Principal use, max. hgt. ft. | 35 | 35 | 35 | 35 | 35 | 35 | 35 | 35 |
| Accessory use, ft. max. | 35 | 35 | 35 | 35 | 35 | 35 | 35 | 35 |
| Principal use, ft. min. | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 |
| Accessory bldg. (small) | 15 | 15 | 15 | 15 | 15 | 15 | 15 | 15 |
| | | | | | | | | |
| Fences – nongame (max. height) | | | | | | | | |
| Front yard, ft. | 4 | 4 | 4 | 4 | 4 | 4 | 4 | 4 |
| Side yard, interior | 8 | 6 | 6 | 6 | 6 | 6 | 6 | 8 |
| Side yard, street | 6^^^ | 6^^^ | 6^^^ | 6^^^ | 6^^^ | 6^^^ | 6^^^ | 6^^^ |
| Rear yard | 8 | 6 | 6 | 6 | 6 | 6 | 6 | 8 |
| | | | | | | | | |
| Fences – game | | | | | | | | |
| Front yard, ft. | Not allowed | Not allowed | Not allowed | Not allowed | Not allowed | Not allowed | Not allowed | Not allowed |
| Side yard, interior | 8 | 8 | 8 | 8 | 8 | 8 | 8 | 8 |
| Side yard, street | 8^^^ | 8^^^ | 8^^^ | 8^^^ | 8^^^ | 8^^^ | 8^^^ | 8^^^ |
| Rear yard | 8 | 8 | 8 | 8 | 8 | 8 | 8 | 8 |

*See PCC 10-8-3B.5 for further regulation and explanation.

**See PCC 10-8-3B.9 for further regulation and explanation.

***See PCC 10-8-3C.7 for further regulation and explanation.

#See PCC 10-8-3B.4 for further regulation and explanation.

##See PCC 10-8-3C.2, C.3, C.4 for further regulation and explanation.

###See PCC 10-8-3B.10 for further regulation and explanation.

^Infrastructure is defined to include rights-of-way, PUB and REC districts within development.

^^Lots of record for twin homes are limited to 20 percent of total lots in development.

^^^See PCC 10-9-2.

| | *MFR* | *MFM* | *MFH* | *CGD* | *CHD* | *MXD* | *PUB* | *REC* |
|---|---|---|---|---|---|---|---|---|
| Min. lot area, square feet | 10,000 | | | | | | | |
| Min. lot width (measured at setback line) | 80 | | | | | | | |
| Min. lot area increase ea. add't unit, square feet | | | | | | | | |
| Max. units/ac excluding ROW, infrastructure^ | 7.25 | 12 | 18 | | | | | |
| Max. lot area per ea. twin home, square feet^^ | 5,000 | | | | | | | |
| Min. lot width, each unit (measured at setback line) | 40.0' | | | | | | | |
| | | | | | | | | |
| **Setbacks** | | | | | | | | |
| Principal uses | | | | | | | | |
| Front yard, ft. | 25 | 25 | 25 | 35 | 35 | | | |
| Side yard, interior | 10** | 10** | 10** | # | # | | # | # |
| Side yard, street | 20** | 20** | 20** | # | # | | # | # |
| Rear yard | 20*** | 10*** | 10*** | # | # | | ## | ## |
| | | | | | | | | |
| Detached accessory uses | | | | | | | | |
| Front yard, ft. | 25 | 25 | 25 | 35 | 35 | | | |
| Side yard, interior | 5 | 5 | 10 | 10 | 10 | | # | # |
| Side yard, street | 20 | 20 | 25 | 10 | 10 | | # | # |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Rear yard | 5 | 5 | 5 | 10 | 10 | | ## | ## |
| | | | | | | | | |
| Distance between residential structures on same lot | | | | | | | | |
| | | | | | | | | |
| **Height** | | | | | | | | |
| Principal use, max, hgt. ft. | 45 | 50 | 50 | 50 | 50 | 45 | 50 | 50 |
| Accessory use, ft. max | 45 | 35 | 35 | 50 | 50 | 45 | 50 | 50 |
| Principal use, ft. min. | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 |
| | | | | | | | | |
| Fences (max. height) | | | | | | | | |
| Front yard, ft. | 6^^^ | 6^^^ | 8^^^ | C^^^ | C^^^ | 6^^^ | 8^^^ | 8^^^ |
| Side yard, interior | 8^^^ | 8^^^ | 8^^^ | 8^^^ | 8^^^ | 8^^^ | 8^^^ | 8^^^ |
| Side yard, street | 20** | 20** | 20** | C^^^ | C^^^ | 8^^^ | 8^^^ | 8^^^ |
| Rear yard | 20*** | 10*** | 10*** | 8 | 8 | | 8 | 8 |

*See PCC 10-8-3:C.5 for further regulation and explanation.

**See PCC 10-8-3B.9 for further regulation and explanation.

***See PCC 10-8-3C.7 for further regulation and explanation.

#See PCC 10-8-3B.4 for further regulation and explanation.

##See PCC 10-8-3C.2, C.3, C.4 for further regulation and explanation.

###See PCC 10-8-3B.10 for further regulation and explanation.

^Infrastructure is defined to include rights-of-way, PUB and REC districts within development.

^^Lots of record for twin homes are limited to 20 percent of total lots in development.

^^^See PCC 10-9-2.

(Code 1998, § 10-8-1; Ord. No. 033-2004, 11-23-2004; Ord. No. 004-2005, 1-18-2005;

Ord. No. 011-2009, 12-8-2009; Ord. No. 007-2010, 8-10-2010; Ord. No. 006-2011, 7-26-2011; Ord. No. 014-2012, 9-25-2012; Ord. No. 015-2013, 11-7-2013; Ord. No. 005-2014, 9-23-2014; Ord. No. 2015-015, 6-9-2015; Ord. No. 2015-016, 7-14-2015; Ord. No. 023-2016, 10-11-2016; Ord. No. 2018-004, 4-24-2018; Ord. No. 2018-011, 10-23-2018; Ord. No. 2020-003, 2-19-2020)

**10-8-2 Lot Size**

A. *Lot areas, flexibility exception*.

1. The individual lot size must meet the minimum square footage requirements as indicated in the space requirement chart, as set forth in PCC 10-8-1. The following exception applies in a subdivision of six lots or more in SFE, SFL and SFT Zones.
    a. Purpose. To provide a means for desirable development, utilizing public facility space and open space, through the use of variations in lot size and frontage width. This is not intended to increase density.
    b. The average of all lots must be equal to or greater than the minimum lot size for the zone, excluding nonresidential uses such as schools, churches, etc.
    c. The number of lots cannot exceed the maximum units for the zone.
    d. A limit of ten percent of the lots can be less than the minimum lot size and/or reduced frontage width, but no lot can be less than 12,000 square feet in the subdivision and the frontage requirement at the setback line must be a minimum of 80 feet.
        (1) In areas that contain sensitive areas and hazard zoned (see PCC chapter 10-5) 30 percent of the lots can be less than the minimum lot size and/or reduced frontage width, but no lot can be less than 12,000 square feet in the subdivision and the frontage requirement at the setback line must be a minimum of 80 feet.
2. Lots having less area than required, which were officially recorded with the county recorder's office at the effective date of the ordinance from which this chapter is derived, may continue to be used, provided that all other requirements set forth herein are satisfied. No lot may hereafter be reduced in area below the minimum requirements set forth, except for the provisions of averaging listed in subsection A.1 of this section.
3. A twin home lot size must meet the minimum square footage requirements as indicated in the space requirement chart, as set forth in this chapter, with the following exceptions:

a. Lot size average may be used as listed in subsection A.1 of this section.

b. Two adjacent lots with combined area meeting the minimum lot area shown in PCC 10-8-1 plus the minimum lot area for one additional unit may be used to build a single-family attached dwelling on each lot. The dwellings area joined at the boundary between the two lots. This applies to zones where single-family attached dwellings are permitted.

B. *Lot width*. The minimum lot width for uses in each of the zoning districts shall be in accordance with the information indicated on the space requirement chart shown in PCC 10-8-1. A lot having less width than herein required which was a lot officially on record in the office of the county recorder at the effective date of the ordinance from which this chapter is derived shall be acceptable, provided that all other requirements set forth herein are satisfied. No lot may hereafter be reduced in width below the minimum requirements set forth.

1. Where an allowed side yard setback of a dwelling occurs five feet from the property line, the adjacent dwelling shall maintain a minimum side yard of ten feet, for a cumulative total dwelling separation of 15 feet. Each residential lot allowing five-foot side yard setback shall be required to have one side yard setback of ten feet.

C. *Restricted lots*.

1. A restricted lot which meets all the requirements of this title for a lot, but the creation of which has caused any adjacent lot, from which it was severed, to be insufficient in area, width, setback, yard, space or other requirements may be considered otherwise by adding or designating sufficient acreage to the adjacent lot to meet all the requirements of this title for a lot. The added or designated land must be duly recorded in the county recorder's office before a building permit may be issued.

2. Building permits will not be issued for construction on restricted lots.

(Code 1998, § 10-8-2; Zon. Ord., 5-8-1991; Ord. No. 98-021, 10-13-1998; Ord. No. OM 011-99, 4-13-1999; Ord. No. 033-2004, 11-23-2004; Ord. No. 004-2005, 1-18-2005; Ord. No. 011-2009, 12-8-2009; Ord. No. 007-2010, 8-10-2010; Ord. No. 006-2011, 7-26-2011; Ord. No. 014-2012, 9-25-2012; Ord. No. 015-2013, 11-7-2013; Ord. No. 005-2014, 9-23-2014; Ord. No. 2015-015, 6-9-2015; Ord. No. 2015-016, 7-14-2015; Ord. No. 023-2016, 10-11-2016; Ord. No. 2018-004, 4-24-2018; Ord. No. 2018-011, 10-23-2018; Ord. No. 2020-003, 2-19-2020)

**10-8-3 Setbacks**

Required setbacks describe areas on lots where no buildings, structures, or additions to them may be located, and which thereby become yard areas. Setbacks may be required between buildings, structures and property lines; between structures and road easements; between buildings and structures themselves; between buildings, structures and natural features such as watercourses; or between other features of site development. The setback requirements of this title are listed for each zone district in the space requirements chart found in PCC 10-8-1.

A. *General setback requirements*.

1. *Subdivision setbacks*. Where a setback line is called for or shown on a recorded subdivision plat or on a recorded development plan, the required setback shall be the setback line shown on the subdivision plat or development plan.

2. *Setbacks adjacent to alley*. See PCC 10-4-6F.3.

3. *Use of setbacks*. Every part of a setback shall be unobstructed from the ground to the sky, except as otherwise provided in this title; and except for the ordinary projections of sills, buttresses, cornices, chimneys, eaves, and window wells; but in no case shall such projections exceed the distance restrictions for each yard type. In all cases, if a public utility easement (PUE) is included in the setback, projections cannot extend into the PUE.

4. *Projections into rights-of-way*. In any area where a building can be legally constructed on or closely adjacent to the right-of-way line of a public street, eaves and roof overhangs, sills, belt courses, fire escapes, balconies, and unroofed and unenclosed porches my project into a street right-of-way not more than 30 inches, provided that all such encroachments shall be at least eight feet above any area used by pedestrians, and at least 14 feet above any area used for vehicular traffic; and provided further, an encroachment permit for such projections is obtained from the city engineer.

5. *Porches, stoops, stairs that are 30 inches in height or greater*. A porch, stoop or stairs which are 30 inches or greater in height shall be regarded as part of the building. Such porch, stoop or stairs require a railing of not less than 30 inches in height. This requirement applies to front, side, and rear yards.

6. *Window wells*.

    a. Window wells may encroach up to a maximum three feet into the required rear yard and may encroach up to a maximum of two feet into a required side yard.

    b. The maximum amount of all window wells located along any wall

may not exceed 40 percent of the length of that wall.

c. When more than one window well is installed along a wall, each shall be separated at least three feet from one another.

d. Window wells used for egress shall comply with the provisions of the building code for an emergency escape window.

7. *Retaining walls*.

a. Less than three feet in height. Retaining walls less than three feet in height are exempt from setback requirements.

b. Three feet to six feet in height. Retaining walls from three feet to six feet in height may be located within a required nonstreet side or rear setback area in residential zones and any setback area in nonresidential zones provided the exposed side of the wall faces into the subject parcel.

c. Greater than six feet in height. Rear and nonstreet side setbacks for retaining walls greater that six feet in height, or where the exposed side of the wall faces out from the subject parcel without regard to height, shall be subject to the same requirements as the main structure in the applicable zoning district.

8. *Elements that are placed directly upon the finish grade*.

a. Elements that are placed directly upon the finish grade that do not exceed 30 inches in height at any point above the surrounding finish grade in front and street side setbacks areas are exempt as follows:

(1) Driveways, walks, and steps. The driveway shall be limited to the area necessary to provide safe and efficient ingress and egress from the required off-street parking spaces located behind a setback area.

(2) Decks, patios, and terraces. See subsection D.5 of this section.

(3) One flagpole that does not exceed 15 feet in height and is set at least five feet from the property line.

(4) Lamp posts adjacent to walkways, stairways, and driveways that do not exceed six feet in height.

(5) Landscape accent lighting that does not exceed 18 inches in height.

(6) Public utility vaults, including footings, if completely

underground. Any mechanical or electrical equipment shall be subject to the setback requirements.

B. *Front yard*.

1. The front yard shall be measured from the property line to the front face of the building, attached accessory building, accessory building, covered porch or covered terrace. Steps, uncovered porches, eaves and roof extensions may project into the required front yard for a distance not to exceed four feet; and placed so as to not obstruct light or ventilation of building or ready use of the yards for ingress or egress, and where allowed by the building code.

    a. For existing homes, that do not meet the building code for entry landings:

        (1) A covered, unenclosed, entry may extend further than four feet into the required front yard; but shall not extend further than the minimum to meet the requirements in the building code for entry landings.

        (2) Ramps that are added to allow for ADA access may extend into the required front yard; but shall not extend further than the minimum to meet the grade and landing requirements for ADA access.

        (3) A site plan shall be submitted for zoning approval.

2. Gasoline service station pump islands may not be located closer than 50 feet to the front property line.

C. *Side yard*.

1. Every part of the required side yard shall be open and unobstructed, except for normal projections of windowsills, belt courses, cornices, chimneys and other architectural features projecting no more than 36 inches into the required side yard, roof eaves projecting no more than 36 inches into the required side yard and accessory buildings occupying no more space of any principal use side yard than that permitted in PCC 10-9-6.

2. Where a fire wall of a dwelling, garage or carport is located on a property line, the roof shall be so designed and constructed so as not to drain water onto the adjoining lot and except for properties located in the Mixed-Use District abutting other properties also located in the Mixed-Use District, there shall be one side yard of at least 20 feet.

3. Whenever any use or district not normally requiring a side yard adjoins a use or district requiring a side yard, a minimum ten-foot side yard shall be maintained.
4. A single-family attached dwelling unit separated by a fire or party wall need not provide a side yard on the fire or party wall side, except that no complex of attached dwelling units shall exceed 300 feet in length. A minimum side yard of ten feet on the separated side of any attached dwelling unit shall be required so that the end of any two building complexes shall be at least 20 feet apart.
5. A complex of multiple-family dwelling units shall maintain a minimum side yard of ten feet so that any two adjacent complexes shall be at least 20 feet apart and maintain an open corridor for fire and other emergency vehicle access.
6. In residential districts, accessory buildings may be placed no closer than five feet to the side property line if adjacent to a separate lot of record, nor less than 20 feet if adjacent to a public street or road.
7. Gasoline service station pump islands shall be located no closer than 20 feet from the side yard line if adjacent to a separate lot of record, nor less than 50 feet if adjacent to a public street or road.
8. Residential structures exceeding 45 feet in height as determined in PCC 10-8-4B shall maintain a minimum side yard of equal to 50 percent of the building height.
9. Where an allowed side yard setback of a dwelling occurs five feet from the property line, the adjacent dwelling shall maintain a minimum side yard of ten feet, for a cumulative total dwelling separation of 15 feet. Each residential lot allowing five-foot side yard setback shall be required to have one side yard setback of ten feet.
10. Property in a Mixed-Use District may have lots which contain no side yards when the buildings on the adjoining lots utilize shared party walls. If the adjoining properties do not share party walls than a minimum of 30 feet is required between adjoining buildings (15-foot side yard on each property). In the Mixed-Use District a 30-foot alley is required a minimum of every 500 feet for access to parking located behind the buildings.

D. *Rear yard*.

1. Nonresidential uses which have a rear lot line adjacent to an alley or other public right-of-way that is at least 20 feet in width requires no minimum rear yard.
2. Nonresidential uses which have a rear lot line adjacent or contiguous to another nonresidential use requires no minimum rear yard, provided the

rear wall satisfies fire wall standards.

3. Nonresidential uses abutting or adjacent to a residential district shall maintain a minimum rear yard of 20 feet.
4. Normal projections of windowsills, belt courses, cornices, chimneys and may project no more than 24 inches into the required rear yard and roof eaves projecting no more than 36 inches into the required rear yard.
5. A deck is considered as an exterior floor system supported on at least two opposing sides by adjoining structures and/or posts, piers or other independent supports.
    a. A deck which is less than 120 square feet and less than 30 inches above adjacent grade, and independently supported, will not require a building permit and is not considered part of the main structure.
    b. An attached, covered deck is considered part of the main dwelling and required to meet the associated setbacks.
    c. A portion of an attached uncovered deck may project into the required rear yard no more than one-half of the distance of the required rear yard (i.e., required rear yard is 20 feet, the deck can project no more than ten feet into the required yard); and the projection may take up no more than 50 percent the required rear yard. The projection of the deck is included in the overall 25 percent limitation in PCC 10-9-6.
    d. Detached decks (designed and constructed having no physical connection to the primary structure) are considered an accessory use; and must be a minimum of five feet from the primary structure.
    e. No portion of any deck is permitted to be located within an easement or within five feet of a property line.
6. Accessory buildings may be placed no closer than five feet to the rear property line in residential districts (see PCC 10-9-6) and no closer than ten feet in nonresidential districts.
7. Structures containing four-family dwelling units or more shall maintain a minimum rear yard equal to 50 percent of the building height, but in no case less than 20 feet.

E. *Double frontage, interior, and odd-shaped lots*.

1. *Double frontage lots*. Rather than a front and rear yard, there shall be two front yard setbacks for the purpose of computing setbacks.
2. *Interior lots*. The setback requirements for the applicable zone district

shall apply. The setback shall be measured from the property lines of the interior lot for the respective yards. If the access to the property is included in the property (not an easement through adjacent property), the access property lines are not considered for setback determination.

3. *Odd-shaped lots*. In the case of odd-shaped lots, the administrative land use authority (ALUA) shall determine the required setbacks, which widths and depths shall approximate as closely as possible the required widths and depths of corresponding setbacks on rectangular lots in the applicable zone district. In determining the required setbacks for odd-shaped lots, the ALUA shall consider the following:

    a. The setback will not be detrimental to the health, safety, comfort, convenience, and general welfare of the neighborhood and will not be incompatible with the surrounding areas.

    b. The setback conforms with other applicable provisions of this title.

    c. The setback will not conflict with any easements required for public access through, or the public use of, a portion of the property.

(Code 1998, § 10-8-3; Zon. Ord., 5-8-1991; Ord. No. 98-021, 10-13-1998; Ord. No. 011-99, 4-13-1999; Ord. No. 033-2004, 11-23-2004; Ord. No. 004-2005, 1-18-2005; Ord. No. 011-2009, 12-8-2009; Ord. No. 007-2010, 8-10-2010; Ord. No. 006-2011, 7-26-2011; Ord. No. 014-2012, 9-25-2012; Ord. No. 015-2013, 11-7-2013; Ord. No. 005-2014, 9-23-2014; Ord. No. 2015-015, 6-9-2015; Ord. No. 2015-016, 7-14-2015; Ord. No. 2015-020, 11-17-2015; Ord. No. 023-2016, 10-11-2016; Ord. No. 2018-004, 4-24-2018; Ord. No. 2018-011, 10-23-2018; Ord. No. 2020-003, 2-19-2020)

## 10-8-4 Height

A. *Established*. The maximum and minimum heights for principal (or main) structures and the maximum height for accessory structures in each of the zoning districts shall be in accordance with information provided on the space requirement chart shown in PCC 10-8-1. There shall be no minimum height required of accessory structures. Where a lawfully existing building at the effective date of the ordinance from which this chapter is derived has a greater or lesser height than allowed herein, said height may be altered if said alteration in no way increases the degree of nonconformity, and provided all other requirements are satisfied.

B. *Determination*. The height of a building or structure shall be determined as the vertical distance as measured from the highest point of the roof of the building or structure down to a point representative of the average finished grade of the land around the perimeter of the building or structure.

(Code 1998, § 10-8-4; Zon. Ord., 5-8-1991; Ord. No. 033-2004, 11-23-2004; Ord. No. 004-2005, 1-18-2005; Ord. No. 011-2009, 12-8-2009; Ord. No. 007-2010, 8-10-2010; Ord. No. 006-2011, 7-26-2011; Ord. No. 014-2012, 9-25-2012; Ord. No. 015-2013, 11-7-2013; Ord. No. 005-2014, 9-23-2014; Ord. No. 2015-015, 6-9-2015; Ord. No. 2015-016, 7-14-2015; Ord. No. 023-2016, 10-11-2016; Ord. No. 2018-004, 4-24-2018; Ord. No. 2018-011, 10-23-2018; Ord. No. 2020-003, 2-19-2020)

## 10-8-5 Commercial Zoned Districts; Site Development

All site development and landscaping in the commercial zoned districts shall conform to the minimum regulations specified herein.

A. *Site plan required*. A site plan is an architectural plan, landscape architecture document, and a detailed engineering drawing of proposed improvements to a given lot. A site plan shows a building footprint, travelways, parking, drainage facilities, sanitary sewer lines, water lines, trails, lighting, and landscaping and garden elements. Commercial site plans must include:

1. Show north arrow, scale, building location, property lines, setbacks, abutting rights-of-way, parking layout, ADA parking and ramps, entrances to site, curbs, water and sewer lines, fire hydrants, fire lanes, storm drain lines and appurtenances.
2. Show all existing fire hydrants within 300 feet.
3. Show parking/loading computations for proposed use.
4. Show connectivity with adjacent parking lots and interior private roadways.
5. Show landscaping computations for proposed use.
6. Provide elevations with rendered elevations for all elevations; include color renderings of design concept or intent, site elements, and building facades.
7. Provide floor plans; include the proposed low floor elevation.
8. Provide cross sections of the site showing spatial relationships between all vertical elements (building, trees, berms, light standards, etc.) as they relate to activities and use of streetscape, pedestrian, and parking areas.
9. Provide lighting and signage plan for the entire site; indicate how signs will be illuminated, their design and spatial relationship to other site amenities, including buildings, and a graphic example of each type of sign. This does not take the place of a sign permit application.
10. Provide stormwater pollution prevention plan if the site disturbs an acre or more, or is part of a larger development.

11. Provide cost estimates for site development, including, but not limited to, landscaping, parking/loading areas, pedestrian areas.
12. Summary data indicating the area of the site in the following classification: total area of the lot, total area and percentage of the site utilized by buildings, total area and percentage of the site in landscape area, total area and percentage of the site for parking areas (including the number of parking spaces).

B. *Parking/parking lots*. Private parking lots within any development shall provide interior access to adjacent parking lots and interior private roadways. When new developments are being constructed adjacent to existing businesses the project shall join existing drives and parking lots at property lines. When new developments are proposed adjacent to undeveloped land or underdeveloped areas, the new developments shall construct connections which will allow joining of future roads or parking lots. All accesses between interior lots and roads shall be open to the public for customer parking and access.

1. Visitor, guest or customer drop-off zones and parking shall be provided near visitor or customer entrances into buildings and shall be separated from all-day employee parking.
2. Parking will not be permitted closer than 15 feet to the property line unless it is decided by the land use authority to be in the best interest of the city to permit parking to be closer than 15 feet. A business that locates the parking in the rear of the building rather than the front will be allowed a front yard setback of 15 feet. The standard front yard setback will be used when a business locates the parking in the front of the building. When parking is allowed on the street adjacent to the building the standard front yard setback applies.
3. Parking aisles shall not exceed 40 cars in a row. Total parking area shall be broken down into sections not to exceed 100 cars. Each section shall be separated by internal drives to improve traffic circulation.
4. All parking spaces must be designated properly by painter lines or other city-approved methods.
5. Minimum aisle dimensions (from face of curb to face of curb) shall be:

| | |
|---|---|
| 90-degree parking | 64 feet |
| 60-degree parking | 60 feet |
| 45-degree parking | 53 feet |

6. One access shall be allowed per lot, as exists on the effective date of the ordinance from which this chapter is derived, or one access shall be

allowed for each 150 feet of frontage with a maximum of two accesses per street frontage. Minimum distance between accesses shall be 100 feet and the minimum distance from the street intersection shall be 100 feet, except for service stations which are approved conditional uses where only two accesses are allowed per lot with one frontage. A third access shall be allowed for the other street frontage on corner lots as long as it meets the frontage and distance requirements above.

7. *Handicap parking*. All private, public and city parking lots shall provide accessible handicap parking. Minimum design, sign and identification of handicap parking spaces shall be as specified in the state building board planning and design criteria to prevent architectural barriers for the aged and physically handicapped.

C. *Landscaping*. All landscaped area shall be planted with live plant material and include a permanent automatic irrigation system. The owner, tenant and agent shall be jointly and individually responsible for the maintenance of all landscaping in good condition and free from refuse and debris so as to present a healthy, neat and orderly appearance. The landscaped public area between the curb, gutter, and sidewalk is not used to meet the landscape requirements. See PCC 7-1-8 for park strip requirements.

1. *Design initiatives*.

    a. To establish landscape themes that include street trees and streetscape designs throughout the city to promote and overall character and identity to the community.

    b. Promote innovative and cost-conscious approaches to the design, installation, and maintenance of landscaping while encouraging water and energy conservation.

    c. Promote planting techniques that ensure long-term health of plant materials.

    d. Screen unsightly building structures, equipment or materials from the view of persons on public streets or adjoining properties of incompatible land uses.

2. Large retail buildings (15,000 square feet and larger) shall require at least ten percent of the total lot be landscaped.

3. Retail buildings (detached, less than 15,000 square feet) shall require at least ten percent of the total lot be landscaped.

    a. A ten-foot-wide minimum landscaped area shall be provided around the entire building, with the exception of where loading docks, ramps, etc., are located. Up to five feet of said ten-foot minimum may be sidewalk. The administrative land use authority

may provide for an exception to this requirement if soil types make it inadvisable to have irrigation near the building. In such case, the required amount of landscaping shall be provided elsewhere on the property.

4. Professional/office buildings shall require at least 15 percent of the total lot be landscaped.

    a. A ten-foot-wide minimum landscaped area shall be provided around the entire building, with the exception of where loading docks, ramps, etc., are located. Up to five feet of said ten-foot minimum may be sidewalk. The administrative land use authority may provide for an exception to this requirement if soil types make it inadvisable to have irrigation near the building. In such case, the required amount of landscaping shall be provided elsewhere on the property.

5. Industrial/warehouse buildings shall require at least ten percent of the total lot be landscaped.

    a. A ten-foot-wide minimum landscaped area shall be provided around the entire building, with the exception of where loading docks, ramps, etc., are located. Up to five feet of said ten-foot minimum may be sidewalk. The administrative land use authority may provide for an exception to this requirement if soil types make it inadvisable to have irrigation near the building. In such case, the required amount of landscaping shall be provided elsewhere on the property.

6. *Parking areas*. Landscaping in parking area shall be designed to provide the following:

    a. Incorporate appropriate plantings that are in scale with their surroundings.

    b. Separate roadways, travel paths, pedestrian paths etc., using landscaped islands and/or planter strips.

        (1) Define area where pedestrians are safely separated from the travel path/roads.

        (2) Reinforce way-finding by emphasizing entrances and circulations patterns.

    c. Add aesthetic value, provide canopy shade, reduce radiant hear from the surface, reduce headlight glare, and add seasonal interest.

d. When possible, preserve mature trees and other significant landscape features which help define the character of the city.

e. When planted parking medians are used, they shall be a minimum of ten feet, six inches wide.

f. Planted islands shall be a minimum of 25 square feet.

7. *Xeriscape*. Xeriscape is landscaping that reduces or eliminates the need for supplemental water from irrigation. It is different from natural landscaping, because the emphasis is on selection of plants for water conservation, not necessarily selecting native plants. Xeriscape landscaping can work well in the state's desert climate. Xeriscape landscape is not zero-scape; it is an area filled with color, scent and variety. Trees can be used effectively in xeriscape and with property planning, planting, and care, they will thrive in low-water landscape.

8. *Low impact development (LID)*. LID is a stormwater management approach with a basic principle that is modeled after nature: manage rainfall at the source using uniformly distributed decentralized micro-scale controls. LID's goal is to mimic a sites predevelopment hydrology by using design techniques that infiltrate, filter, store, evaporate, and detain runoff close to its source. Developments are encouraged to implement LIDs.

9. *Trees*. One tree (minimum two-inch caliper, minimum ten feet in height) shall be planted and maintained for each 1,000 square feet of landscaped area. Trees in portable planters shall not qualify to meet the tree requirements.

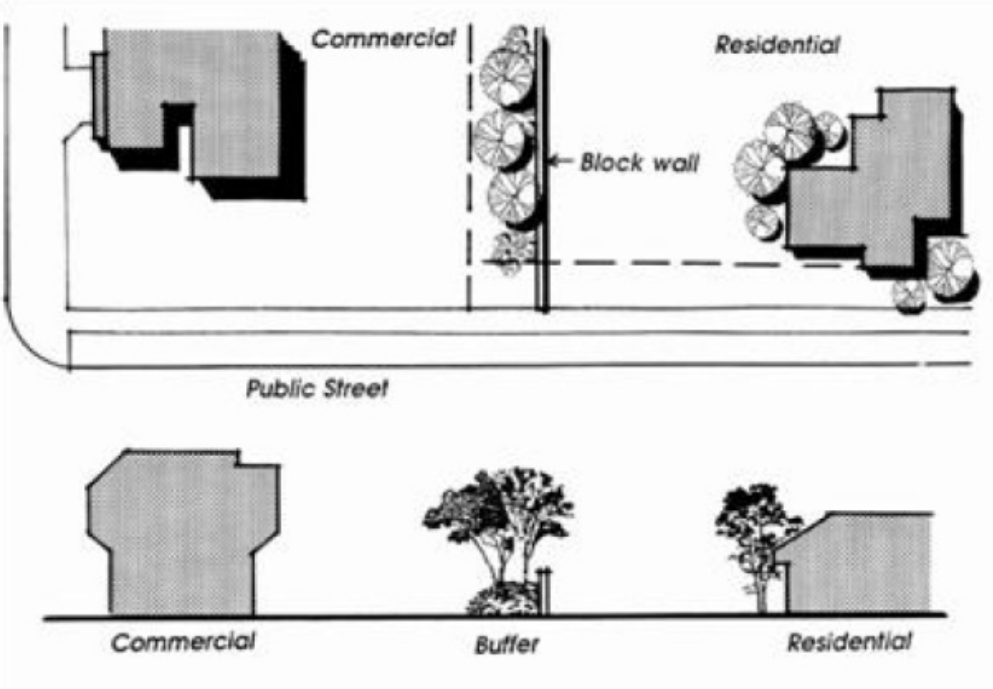
    a. Trees within overhead utility easements shall be of a type that customarily grows to a height not exceeding 15 feet.

10. *Plants*. The selection of plant materials should consider public health and safety. Plants to be avoided include those with poisonous fruits, large thorns, or invasive growth patterns. The ultimate form and height of plantings as they mature should be considered so they will not create unsafe conditions or block sight lines for pedestrians, bicyclists, or motorists.

    a. Planting beds may be mulched with bark chips, decorative stone, or similar materials. Mulch shall not be used as a substitute for plants.

11. *Landscaped buffer*. The term "landscaped buffer" means a landscaped area whereby trees and other plan materials are used to create a wide, landscaped park- or garden-like area around the perimeter, or in the side

and/or rear yard, of a property in order to physically and visually separate and mitigate undesirable environmental impacts (such as noise, dust, stormwater, etc.) between commercial zones and residential zones. Generally accepted scale for landscape buffers. The following minimum and maximum width of transitional yards and screening should be used between commercial and residential uses:




a. Minimum width: Ten feet.

b. Maximum width: 50 feet.

c. Where commercial buildings are less than 5,000 square feet in area, a minimum ten feet buffer is substantial. Otherwise, if the building area is greater than 5,000 square feet in area, a landscape buffer should be a minimum 25 feet.

12. *Planting materials in the landscape buffer*.

a. Choose plants that will naturally grow to the desired form or height to reduce maintenance. No limbing up (this will lessen the life and strength of the tree).

b. Tree canopies should have a natural growth height of at least eight feet from the ground when located around areas in the clear-view area (see PCC chapter 10-9). Tree canopies should have a natural growth height of at least four feet from the ground when located around parking areas, walkways, etc.

c. New trees and shrubs should be evenly spaced at planting, with

trees having an eight-foot minimum installed height, and shrubs having a 36-inch minimum installed height.

d. Landscaping in the landscape buffer should consist of a minimum of six large maturing trees (minimum 50 percent evergreen) and 40 medium shrubs (minimum 75 percent evergreen) for each 100 linear feet, to provide continuous coverage. For dimensions of less than 100 feet, plantings and spacing will be in proportion to the basic ratio.

13. *Snow storage*. Landscape materials surrounding parking lots and in islands and medians should be able to tolerate large quantities of snow stored during winter months. Delicate plant material should not be used in area where they are likely to be damaged by snow.

14. *Lighting*. The intent of lighting is to provide the necessary lighting to ensure pedestrian safety, night vision for pedestrians and automobiles, add aesthetic value to the city appearance, and not create or cause excessive glare onto adjacent properties.

    a. Lighting height and location shall be designed to illuminate the site only. Light cutoffs are required to prevent spillover of direct light.

    b. Pedestrian street lights or lamp posts located within the public right-of-way are required in all commercial zones.

    c. Pedestrian street lights or lamp posts located within the public right-of-way shall be mounted between eight feet to 16 feet above grade to provide illumination of street sidewalks.

    d. Pedestrian street lights or lamp posts shall reflect the architectural design characteristic of the surrounding area.

    e. Up-lighting is not permitted, except as approved through the site plan review for highlighting signature landscape features or building elements.

    f. HID or fluorescent tube lights (except compact fluorescent bulbs) are not permitted as exterior building lights.

    g. Floodlights or directional lights permitted for the lighting of alleys, parking garages and outdoor working areas must be shielded or directed to prevent the source of light (bulb or lamp) from being seen from adjacent properties or public rights-of-way.

15. All landscape plans submitted for approval shall contain the following information unless specifically waived by the city. At the discretion of the city a final landscaped plan may require a stamp from a state licensed

landscape architect.

a. The location and dimensions of all existing and proposed structures, property lines easements, parking lots and drives, roadways and rights-of-way, sidewalks, bicycle paths, ground signs, bicycle parking areas, fences, freestanding electrical equipment, tot lots, and other recreation facilities.

b. The location, quantity, size and name, both botanical and common names, of all proposed plants.

c. The location, size and common names, of all existing plants including trees and other plants in the parkway and indicating plants to be retained and removed.

d. The locations of existing buildings and structures on adjacent property within 20 feet of the site.

e. Location and heights of fences and retaining walls proposed on the site.

f. At the discretion of the city a final irrigation plan may require a stamp from a state licensed landscape architect.

16. *Completion; performance security*. No requests for any building, structure or other improvements shall be approved until site and landscape plans have been approved by the administrative land use authority; and a preconstruction meeting held.

a. *Preconstruction meeting*. A pre-construction meeting will be held with the developer, general contractor for the development, and city staff prior to beginning any construction in the development, including grading and trenching.

(1) It is the developer's responsibility to notify the general contractor and all appropriate subcontractors for the development of their required attendance at the preconstruction meeting and that no construction can commence until after that meeting.

(2) The stormwater notice of intent (NOI) and stormwater pollution prevention plan (SWPPP) must be in place prior to the preconstruction meeting.

b. Landscaping and site developments in accordance with the approved plans shall be installed within 30 days following occupancy of the building.

c. If said completion date is impossible due to adverse weather conditions, a mutually agreed-upon completion date shall be

determined by the city and the applicant, but in no case shall the completion date be more than 150 days from the date of occupancy. The developer (or owner) shall hereby deposit a security of performance as specified in PCC 11-5-7B through C as security to ensure compliance with all landscaping and site requirements. If the developer or an agent of the developer fails to comply with the above installation and time requirements, the security of performance may be foreclosed upon by the city to cover costs of installing, repairing or replacing said landscaping and site developments.

D. *Undeveloped area*. All areas of the parcel on which development is taking place shall be regulated by this chapter. Land which is not covered by the building, parking lots, roads, landscaping or otherwise improved shall, as a minimum, be restored with natural vegetation and maintained so as not to create a weed nuisance (see PCC chapter 2-4), or the area may be maintained in agricultural production.

(Code 1998, § 10-8-5(part); Zon. Ord., 5-8-1991; Ord. No. OM 019-99, 7-27-1999; Ord. No. 009-2002, 6-11-2002; Ord. No. 033-2004, 11-23-2004; Ord. No. 004-2005, 1-18-2005; Ord. No. 006-2005, 2-8-2005; Ord. No. 011-2009, 12-8-2009; Ord. No. 007-2010, 8-10-2010; Ord. No. 006-2011, 7-26-2011; Ord. No. 014-2012, 9-25-2012; Ord. No. 015-2013, 11-7-2013; Ord. No. 005-2014, 9-23-2014; Ord. No. 2015-015, 6-9-2015; Ord. No. 2015-016, 7-14-2015; Ord. No. 023-2016, 10-11-2016; Ord. No. 2018-004, 4-24-2018; Ord. No. 2018-011, 10-23-2018; Ord. No. 2020-003, 2-19-2020)

## 10-8-6 Parking Regulations

Except as herein provided, no building or structure shall be constructed, altered or converted for or to any use unless there shall be provided on the lot or parcel vehicle parking of at least the following ratio of vehicle spaces for the uses specified in the designated districts and that all roadways comply with the standards contained herein. The exception being that an established use lawfully existing at the effective date of the ordinance from which this chapter is derived need not provide parking or roadways as herein set forth and that no existing vehicle parking or roadways be reduced or further reduced below the minimum standards herein required.

A. *Schedule*. In all districts, the following off-street parking schedule shall apply:

1. *Dwelling unit*.

a. Two spaces for each unit, except as provided in subsection A.1.b and c of this section.

b. Dwelling unit occupied by four or more individuals unrelated by blood, marriage or adoption; two spaces per three individuals,

plus one additional space for each additional individual exceeding three and up to and including five individuals.

c. Multiunit residences for persons with disabilities and/or residential facility for the aged; when evidence presented by the applicant warrants, the land use authority may allow a number less than two space per dwelling unit; but not less than 1.5 spaces per dwelling unit to the city council.

2. *Clinic or doctor's office*. Ten spaces per clinic or four spaces per doctor or dentist, plus three additional spaces for each doctor or dentist over three.

3. *Restaurant or cafeteria*. One space for each four fixed seats and one space for each 40 square feet of floor area for moveable seating under maximum seating arrangement.

4. *Office, general*. One space for each two employees working the shift with the greatest number of employees.

5. *Commercial*.

   a. *Recreation and amusement*. One space for each 250 square feet in use.

   b. *Retail or personal service*. One space for each 250 square feet in use.

6. *Churches, meeting rooms, public assembly*. One space for each five fixed seats and one space for each 50 square feet of floor area for moveable seating under maximum seating arrangement.

7. *Storage or warehouse*. One space for each 5,000 square feet or floor area.

8. *Manufacturing, process or repair*. One space for each two employees working the shift with the greatest number of employees.

B. *General requirements*.

1. *Buildings, developments; computation*. In computing the parking requirements for any building or development, the total parking requirements shall be the sum of the specific parking space requirements of all of the buildings, structures or uses in the development.

2. *Single-family dwelling*. Single-family dwelling unit (detached or attached) parking shall be provided only in a private garage, driveway, or in an area properly located for a future garage.

3. *Plan approval*. Prior to the issuance of any building permit, a plan which

clearly and accurately designates parking spaces, access aisles, driveways and the relationship to the use to be served by the off-street parking shall be forwarded to the land use authority for the process of city approval. Approval shall be based on:

a. Adequate number of spaces, including handicap spaces if required;

b. Relationship of parking to use;

c. All parking spaces being usable and accessible by adequate roadway/parking configuration; and

d. Parking stalls being nine feet in width by 20 feet in length and on a hard paved surface (see section 10-8-5B for parking requirements for individuals with disabilities.). Access to all stalls shall also be of a hard-paved surface.

4. *Location*. Parking space, as required above, shall be on the same lot with the main building, or in the case of nonresidential buildings, it may be located no further than 300 feet therefrom.

(Code 1998, § 10-8-6; Zon. Ord., 5-8-1991; Ord. No. 033-2004, 11-23-2004; Ord. No. 004-2005, 1-18-2005; Ord. No. 011-2009, 12-8-2009; Ord. No. 007-2010, 8-10-2010; Ord. No. 006-2011, 7-26-2011; Ord. No. 014-2012, 9-25-2012; Ord. No. 015-2013, 11-7-2013; Ord. No. 005-2014, 9-23-2014; Ord. No. 2015-015, 6-9-2015; Ord. No. 2015-016, 7-14-2015; Ord. No. 023-2016, 10-11-2016; Ord. No. 2018-004, 4-24-2018; Ord. No. 2018-011, 10-23-2018; Ord. No. 2020-003, 2-19-2020)

**10-8-7 Site Requirements For Seasonal Business Facility, Semi-Permanent Business Facility, And Temporary Business Facility**

A. *Purpose*. Provide a variety of business opportunities and increase sales revenue.

B. *Approval authority*. The administrative land use authority shall be the approving authority for site approvals for seasonal, semi-permanent, and temporary business facilities.

C. *Site plan agricultural and residential zones*. Seasonal business facility and temporary business facility in agricultural and residential zones shall comply with the requirements for a home business.

D. *Site plan commercial zones*. Seasonal business facility and temporary business facility may be located on improved sites or unimproved sites in CHD, CGD, CND, MXD zones with the following conditions:

1. *Improved site*. Utilities (if required); parking must be asphalt; restrooms (may be portable units).

2. *Unimproved site*. Utilities (if required); parking and access must be an all-weather surface to prevent tracking of mud and debris on the city right-of-way; if restrooms are required, portable units may be used.
3. Must provide a signed statement from the property owner or assigns that the business may occupy the space and has permission to use the amenities listed in subsection F.1 or 2 of this section from the existing on-site or adjacent permanent facility.
4. If a parking lot is used to house a temporary or seasonal business, the spaces used must be in excess of those spaces required for the permanent facility.
5. Must comply with applicable city, county, state, and/or federal codes, rules, and policies (including, but not limited to, building, fire, health). Zoning codes for setbacks and landscaping may not apply.
6. Tents and temporary signs must be secured in such a manner that they not pose a hazard for buildings, vehicles, and/or pedestrians.
7. If selling from a car, truck, van, trailer, tent, etc., it must not be located in a manner that blocks required building entrances/exits, ingress and egress, pedestrian and/or vehicular flow and visibility.
8. Must not be located in or on city-owned property, including park strips and right-of-way, without written consent from the city or as part of a city-sponsored event.
9. Any facility structures, tents, trailers, vehicles, etc., must be removed within ten calendar days after the site approval expires. Temporary signs must be removed within 24 hours after the site approval expires.

E. Semi-permanent business facility shall be located on improved sites in CHD, CGD, CND, MXD zones with the following conditions:

1. Must provide a signed statement from the property owner or assigns that the business may occupy the space and has permission to use their utilities (other than culinary water and sewer), stormwater facilities, and parking from the existing on-site or adjacent permanent facility. On-site or adjacent permanent facility must have enough parking to meet its requirements and excess to share with the semi-permanent business facility.
2. Must have a separate culinary water connection as shown on the approved construction drawings for the development or as approved by the public works director. If portable restrooms are used, a separate sewer connection will not be required.
3. Must comply with applicable city, county, state, and/or federal codes,

rules, and policies (including, but not limited to, building, fire, and health). Must comply with zoning codes for setbacks and landscaping.

4. Tents and temporary signs must be secured in such a manner that they not pose a hazard for buildings, vehicles, and/or pedestrians.

5. Any structures, tents, trailers, debris, etc., must be removed within 30 calendar days after the site approval expires. Temporary signs advertising the business activity must be removed within 24 hours after the site approval expires.

(Code 1998, § 10-8-7(part); Ord. No. OM 002-02, 3-26-2002; Ord. No. 033-2004, 11-23-2004; Ord. No. 004-2005, 1-18-2005; Ord. No. 011-2009, 12-8-2009; Ord. No. 007-2010, 8-10-2010; Ord. No. 006-2011, 7-26-2011; Ord. No. 014-2012, 9-25-2012; Ord. No. 015-2013, 11-7-2013; Ord. No. 005-2014, 9-23-2014; Ord. No. 2015-015, 6-9-2015; Ord. No. 2015-016, 7-14-2015; Ord. No. 023-2016, 10-11-2016; Ord. No. 2018-004, 4-24-2018; Ord. No. 2018-011, 10-23-2018; Ord. No. 2020-003, 2-19-2020)

## 10-8-8 Low Power Towers And Antennas For Radio Communication

A. This section addresses planning issues resulting from the rapid growth in demand for low-power radio services within the city. It distinguishes low-power radio from other broadcasting type telecommunication technologies and established provision relating to demand, visual mitigation, noise, engineering, residential impact, health, safety and facility siting. The requirements of this section apply to both commercial and private low power radio services such as cellular or PCS (personal communication system) communications and paging systems (hereinafter referred to as "cellular facilities"). All cellular facilities shall comply with the regulations set forth in this section, other applicable ordinances of the city, and any pertinent state and federal regulations, including Federal Communications Commission and the Federal Aviation Administration.

B. All cellular facilities descripted herein shall be allowed as a conditional use subject to the conditions set forth in PCC 10-3-5. No other cellular facilities shall be allowed. A site plan is required as part of the conditional use application, see PCC 10-8-5; except that when installing a stealth or monopole structure, the fenced area around the structure shall be considered the building for the ten-foot landscape requirement, not the structure or individual buildings within the fenced area. A minimum of one parking space and access drive will be required.

C. *Wall-mounted antennas*. A wall-mounted antenna shall comply with the following development standards:

1. Wall-mounted antennas shall not extend above the roof line of the building more than four feet.

2. Wall-mounted antennas may have a maximum area of 40 square feet, as

determined by drawing straight lines between the outermost portions of the antenna until enclosed.

3. All equipment associated with the operation of the antenna shall be located within the structure to which the antenna is attached or screened from public view.
4. If associated equipment is located on the ground, it shall be appropriately landscaped.
5. Whip antennas shall not be permitted.

D. *Roof-mounted antennas*. A roof-mounted antenna shall comply with the following development standards:

1. A roof-mounted antenna shall be screened, constructed, and/or colored to match the structure to which it is attached.
2. A roof-mounted antenna shall be set back from the building edge one foot for every one foot of antenna height and shall not exceed 15 feet in height.

E. *Stealth-fixture antennas*. A stealth antenna shall be subject to the following development standards:

1. A stealth-fixture antenna may be attached to an existing or replacement power pole or light pole or disguised as a flagpole, manmade tree, clock tower, steeple or structure used primarily for another use so long as any antenna located on the structure does not detract visually from the primary use.
2. When a stealth-fixture antenna is attached to an existing or replacement power pole or light pole the following conditions shall be met:

    a. The antenna shall not exceed the height of an existing pole by more than:

        (1) Ten feet; or

        (2) 20 feet and shall not be located closer to a residential zone boundary than two times the height of the pole;

    b. If a replacement pole is proposed, the pole shall be installed in the same location as the pole being replaced unless the land use authority specifically approves a different location as provided in a conditional use permit; and

    c. (1) Any existing light or power pole located in a public right-of-way or in a required front or side yard shall not be

increased in height to accommodate a cellular facility antenna;

(2) Any replacement pole located in a public right-of-way or in a required front or side yard shall not be higher than the pole that it is replacing;

(3) Each installation shall be approved by the power utility company (or other utility company, as applicable), including approval and acceptance of any applicable agreements and payment of any required fees. Such approvals shall be received prior to final approval of a conditional use permit;

(4) A structure to which a stealth-fixture antenna is attached shall be designed by a state-certified engineer to verify that the structure can support the stealth-fixture antenna;

(5) The overall height of any structure proposed to be used for a stealth-fixture antenna shall be consistent with any similar structure being used as a model for the stealth structure. Except as otherwise provided in subsection E.2.a.(2) of this section, a stealth-fixture shall be no more than ten feet higher than the structure to which it is attached, provided the fixture and the structure to which it is attached is consistent with the character of similar structures located in the same area, as determined by the land use authority. The land use authority shall make specific findings to support its determination;

(6) A stealth-fixture antenna, including the mounting structure, shall not exceed 30 inches in diameter; provided, however, that antennas exceeding 30 inches, including the mounting structure, may be permitted if the antenna is a stealth-fixture antenna located on or within a clock tower, steeple, manmade tree, or other similar structure;

(7) Equipment and/or equipment shelters used in connection with stealth-fixture antennas shall be camouflaged behind an effective year-round landscape buffer and/or wooden fence equal to the height of the proposed equipment. Equipment shelters shall not be located within a utility easement;

(8) Stealth-fixture antennas and all associated equipment visible to public view shall be painted to match the color of the structure to which it is attached; or

(9) Electrical wiring shall be located within the pole whenever

possible and shall be required when a metal replacement pole is provided.

d. If a stealth-fixture antenna becomes obsolete or the structure to which it is attached is vacated by the operator of the cellular facility, then within 90 days thereafter the cellular facility operator shall remove the antenna and all associated equipment and shall restore the structure to its original condition. If the requirements of this subsection are not met, the city shall have the right to enter the subject property and remove the equipment or pole at the expense of the cellular facility operator.

e. A project plan application for a stealth-fixture shall include the following:

(1) A letter from the applicant stating the applicant will conform to the requirements of subsection E.2.d of this section; and

(2) Verification that the applicant owns the property where the stealth-fixture antenna is proposed to be located or a copy of a lease agreement with the property owner indicating the antenna may be located on the property.

f. If all the conditions set forth in this subsection cannot be met, the requirements of subsection F of this section shall apply.

F. *Monopole structures*.

1. A monopole structure shall comply with the following development standards:

a. All tower structures shall be of monopole construction. No lattice constructed towers of any kind shall be allowed.

b. All monopole structures shall be designed by a state-certified engineer to allow co-location of antennas owned by at least three separate users on a single pole.

c. No monopole structure shall be located closer to a residential zone boundary than two times the height of the monopole.

d. A monopole with antennas and antenna support structures shall not be located in a required front setback, front landscaped area, buffer area, or required parking area.

e. If a monopole antenna becomes obsolete, then within 90 days thereafter the operator of the cellular facility shall remove the antenna, the top three feet of antenna footing and all associated equipment and shall restore the site to its original condition. If the

requirements of this subsection are not met, the city shall have the right to enter the subject property and remove the equipment at the expense of the cellular facility operator.

f. No monopole structure shall exceed 150 feet in height.

2. An application for a monopole structure shall include the following:

   a. A letter from the applicant stating that the applicant will conform to the requirements of subsection F.1.e of this section, and that the monopole structure is capable of supporting co-located antennas; and

   b. Verification that the applicant owns the property where the monopole structure is proposed to be located, or a copy of a lease agreement with the property owner indicating the antenna may be located on the property.

3. Co-location on an existing monopole structure shall be a conditional use and shall be handled administratively.

G. *Temporary monopole structures*. A temporary monopole structure may be allowed for a maximum of 60 days subject to the following requirements:

1. A temporary monopole structure shall be located in a zone that allows for the placement of a monopole structure as a conditional use.

2. An application shall be filed with the city for the placement of a permanent monopole structure prior to the placement of a temporary monopole structure.

3. The placement of a temporary monopole structure shall meet the height requirement set forth in subsection F.1.f. of this section.

4. A bond in the amount of $500.00 shall be posted to guarantee removal of a temporary monopole structure when:

   a. A permanent monopole structure is constructed; or

   b. 60 days have elapsed, and a temporary monopole structure has not been removed. One 15-day extension may be granted to the 60-day period if an applicant can reasonably demonstrate a need for additional time to complete construction of the monopole structure.

H. *Additional requirements*.

1. Each cellular facility shall be considered as a separate use; and an annual business license shall be required for each such facility.

2. In addition to the conditional use standards set forth in PCC 10-3-5, the land use authority shall make the following findings for any cellular facility subject to a conditional use permit:

    a. That the proposed structure is compatible with the height and mass of existing building and utility structures;

    b. That co-location of the antenna or other existing structures in the same vicinity such as other towers, buildings, water towers, utility poles etc., are possible without significantly impacting antenna transmission or reception;

    c. That the antenna location blends with existing vegetation, topography and buildings;

    d. That the location approval of monopoles will not create a detrimental impact to adjoining properties; and

    e. That location of cellular facility will not interfere with existing transmission signals.

(Code 1998, § 10-8-8(part); Ord. No. 033-2004, 11-23-2004; Ord. No. 004-2005, 1-18-2005; Ord. No. 011-2009, 12-8-2009; Ord. No. 007-2010, 8-10-2010; Ord. No. 006-2011, 7-26-2011; Ord. No. 014-2012, 9-25-2012; Ord. No. 015-2013, 11-7-2013; Ord. No. 005-2014, 9-23-2014; Ord. No. 2015-015, 6-9-2015; Ord. No. 2015-016, 7-14-2015; Ord. No. 023-2016, 10-11-2016; Ord. No. 2018-004, 4-24-2018; Ord. No. 2018-011, 10-23-2018; Ord. No. 2020-003, 2-19-2020)

**State law reference**—Regulation of amateur radio antennas, U.C.A. 1953, § 10-9a-515.

## 10-8-9 Design Standards For Attached And Multifamily Residential Development

A. *Purpose and intent*. It is the intent of these design standards to ensure that single-family attached and multifamily development, is developed in a manner that provides attractively designed, constructed and landscaped housing.

B. *Compliance with standards*. Substantial compliance with the regulations and other provisions of this title in requiring adequate standards related to the public health, safety and general welfare shall be observed, without unduly inhibiting the advantages of large-scale site planning for residential and related purposes. Additionally, all plans related to the development of the site, including, but not limited to, landscaping and irrigation plans, shall comply with the city standards and specifications.

C. *Applicability*. These guidelines shall govern all single-family attached and multifamily residential development in the city, without regard to the underlying zoning designation. In cases where traditional single-family detached housing is

developed as part of a mixed-housing type development, the standards contained herein relative to exterior materials and colors, as well as proposed elevations for single-family detached housing shall apply.

D. *Development standards*. Projects shall be developed under the following standards and guidelines.

1. *Submittals*. Each phase of application and approval of projects shall require certain submittals. The various phases of approval, that phase's required submittals, and the details contained in each submittal are as follows:

a. *Concept plan*. Concept plan submittals shall consist of a general site plan showing approximate building locations, proposed road layouts, proposed open space, general parking layouts, anticipated public and private amenities and their locations. All conceptual plans shall be clearly marked as a conceptual plan.

b. *Preliminary plat*. Preliminary plat submittals shall consist of preliminarily engineered items required in the concept plan submittal, as well as preliminary architectural plans, a preliminary landscaping plan and a preliminary site plan for the overall development of the project. All preliminary plans shall be clearly marked as a preliminary plan.

(1) The preliminary architectural plans shall include elevations for all buildings and color renderings of the design concept or intent, site elements, building facades, and a project data sheet listing the proposed exterior materials and the front facade percentages of the materials.

(2) The preliminary landscaping plan shall consist of the general location and type of plants to be used, as well as the preliminary calculations demonstrating that landscaping requirements have been met.

(3) The preliminary parking plan shall show parking layout detailing resident parking, visitor parking, covered parking, bicycle parking, electrical vehicle charging stations, and include a data sheet demonstrating that plan meets or exceeds the parking requirements per housing type.

c. *Final plat*. Final plat submittals shall consist of the fully designed and engineered drawings for the site plan, architectural plan, landscaping plan and parking plan for the project, with the plans meeting all of the requirements outlined herein and which may be added as a condition of conceptual or preliminary approval. This is in addition to any plats and construction drawings which may be

required as part of the subdivision of property. All final plans shall be clearly marked as a final plan and shall be stamped with the appropriate professional stamp and signed by the professional.

2. *Site plan*. Site plans shall contain the following information:

    a. Summary data indicating the area of the site in the following classification: total area of the entire project site, total area and percentage of the site utilized by buildings, total area and percentage of the site in landscape area, total area and percentage of the site for parking areas.

    b. Show north arrow, scale, building location, property lines, setbacks, abutting rights-of-way, parking layout, ADA parking and ramps, entrances to site, curbs, water and sewer lines, fire hydrants, fire lanes, storm drain lines and appurtenances.

    c. Show all existing fire hydrants within 300 feet.

    d. Show connectivity with adjacent parking lots and interior private roadways.

    e. Show any and all proposed traffic control measures for the project.

    f. Provide lighting and signage plan for the entire site. Indicate how signs will be illuminated, their design and spatial relationship to other site amenities including buildings, and a graphic example of each type of sign.

    g. Provide cross sections of the site showing spatial relationships between all vertical elements (building, trees, berms, light standards, etc.) as they relate to activities and use of streetscape, pedestrian, and parking areas.

    h. Provide stormwater pollution prevention plan if the site disturbs an acre or more or is part of a larger development.

    i. Provide cost estimates for site development, including, but not limited to, landscaping, publicly-owned infrastructure, parking/loading areas, pedestrian areas.

3. *Architectural plan*.

    a. Provide rendered elevations for all buildings, both publicly-owned and privately-held, which the applicant proposes to construct on the property. Include color renderings of design concept or intent, site elements, and all building facades.

    b. Provide proposed floor plans for all buildings on the site.

4. *Architectural design standards*. All buildings within a development subject to this chapter shall be designed and built to the following design standards, unless specifically exempted. The city recognizes that architectural trends change from time to time.

    a. *Exterior materials*.

        (1) All exterior materials shall be above average grade quality, suitable for the climate and exposure in which the development is located, and maintenance free to the greatest degree possible. The city reserves the right to reject any proposed building material it feels is not in harmony with this requirement.

    b. *Elevations*. The exterior elevation of each group of single-family attached townhomes, condominium units, and multifamily units shall meet or exceed the following standards:

        (1) *Exterior finishes*. Exterior building materials shall be natural or cultured brick, rock, or stone over at least 50 percent of the entire building facade (not including windows and doors), the remaining 50 percent being brick, rock, stone, stucco, clapboard, wood, and/or block. At least 75 percent of the 50 percent shall be on the front building facade. All building facades that face a public right-of-way or exterior street shall utilize at least 40 percent of these allowable materials. The use of aluminum siding is prohibited.

            (A) *Front elevation*. Where possible, front elevations shall include a minimum of two windows per above-grade floor. Trim and/or shutters is required on all windows, unless the design of the building is such that trim and/or shutters is not compatible with the overall architectural style.

            (B) *Side elevation*. With the exception of interior attached townhome units, each side elevation shall include a minimum of two windows per above-grade floor. Trim and/or shutters is required on all windows unless the design of the building is such that trim and/or shutters is not compatible with the overall architectural style.

    c. *Roofs*. Pitched roofs are encouraged but not required.

    d. *Garages*.

(1) Attached townhome/duplex. Each attached single-family townhome and duplex is required to have a minimum one-car garage which shall be attached to the main structure and shall be of the same or complimentary architectural materials as the primary residence.

(2) Apartment. Apartments may have garages but are not required to have garages, provided that at least one covered parking spot is provided for each dwelling unit.

(3) Garages may be attached or detached from the primary structures, but the use of attached, recessed garages is strongly encouraged.

(4) Front-loading garages may not protrude beyond the front-plane of the main building facade by more ten feet or 50 percent of the depth of the garage, whichever is less.

(5) Detached garages for apartments shall not exceed 50 percent of the total square footage of the apartment.

(6) If the garage entrance abuts a street, road, or sidewalk, a driveway is required; and must be a minimum of 18 feet in length, measured from the street or road to the garage door. Where a sidewalk exists, it must be a minimum of 18 feet in length, measured from the interior sidewalk edge to the garage door.

e. *Accessory buildings*. Accessory buildings privately owned by an individual homeowner shall not be permitted in any commonly held area.

f. *Porches, decks and overhangs*. In order to provide architectural variety to the development, the use of covered porches, decks and overhangs is encouraged. Such porches, decks and overhangs shall be integrated into the design of the structure in order to avoid the appearance of add-on elements.

5. *Landscaping/irrigation plan*.

a. Show landscaping and irrigation plans for the entire site, specifically, those areas which will be held in common ownership. The landscaping plans shall include any and all requirements outlined in this chapter.

b. The applicant must submit a landscape plan documentation package, which shall be prepared by a licensed landscape architect. The documentation package shall be submitted to and

approved by the city prior to the issue of any permit. A copy of the approved documentation package shall be provided to the property owner or site manager. The plan documentation package shall consist of the following items:

(1) *Project data sheet*. The project data sheet shall contain the following:

(A) Project name and address;

(B) Applicant or applicant's agent's name, address, phone and fax number;

(C) Landscape designer's name, address, phone and fax number; and

(D) Landscape contractor's name, address, phone and fax number, if known.

(2) *Landscaping plan*. A detailed landscaping plan shall be drawn at a scale that clearly identifies the following:

(A) Location of all plant materials, a legend with botanical and common names, and size of plant materials;

(B) Property lines and street names;

(C) Existing and proposed buildings, walls, fences, utilities, paved areas and other site improvements;

(D) Existing trees and plant materials to be removed or retained;

(E) Designation of landscape zones; and

(F) Details and specification for tree staking (trees less than a two-inch caliper must be double staked until the trees mature to two-inch caliper), soil preparation, and other planting work.

(3) *Irrigation plan*. A detailed irrigation plan shall be drawn at the same scale as the planting plan and shall contain the following information:

(A) Layout of the irrigation system and a legend summarizing the type and size of all components of the system;

(B) Static water pressure in pounds per square inch (psi) at the point of connection to the public water

supply;

(C) Flow rate in gallons per minute and design operating pressure in psi for each valve and precipitation rate in inches per hour for each valve with sprinklers; and

(D) Installation details for irrigation components.

(4) *Grading plan*. A grading plan shall be drawn at the same scale as the planting plan and shall contain the following information:

(A) Property lines and street names, existing and proposed buildings, walls, fences, utilities, paved areas and other site improvements;

(B) Existing and finished contour lines and spot elevations as necessary for the proposed site improvements;

(C) Grade shall slope away from the structure as required by the International Building Code.

(5) *Plan review and construction inspection*.

(A) As part of the site plan review process, a copy of the plan documentation package shall be submitted to the city for review and approval.

(B) Following construction and prior to issuing the approval for occupancy, an inspection shall be scheduled with the planning department to verify compliance with the approved landscape plans.

(C) The city reserves the right to perform site inspections at any time before, during or after the irrigation system and landscape installation, and to require corrective measures if requirements of this section are not satisfied.

6. *Landscaping standards*. All required landscaping shall be installed prior to the city's issuance of any certificate of occupancy on the property, unless seasonal conditions make installation unfeasible, in which case the applicant shall provide cash security or its approved alternative for all landscaping, which landscaping shall be installed by the following May 31.

a. *Applicability*. This section applies to all front and rear yard landscaping for multifamily townhome and apartment projects, as well as any common area landscaping which is referenced herein.

b. *Minimum landscaped area*. The applicant shall landscape all common area landscaping and, in the case of single-family attached and duplex housing, all areas which may be privately owned. Landscaped areas shall not be less than five feet wide.

    (1) Children's play areas are places specifically designed to enable children to play, such as a playground or play park; and often contain recreational equipment such as slides and swings. The applicant shall provide children's play area at a minimum of 800 square feet per the first ten units, plus an additional ten square feet per unit above the first ten units. To ensure safety of the children, play areas should be placed in locations that are near the dwelling units and provide good visibility of the play area.

    (2) The applicant shall provide open space equal to or greater than 25 percent of the overall project area. The children's play area can be included in the open space percentage.

    (3) Rooftop landscaping is considered a private amenity and is not eligible for inclusion in the required landscaping percentage.

c. *Materials*. Areas requiring landscaping shall be planted with substantial live plant material, including plants, shrubs, trees, sod, etc., for the purpose of buffering, screening, and improving the visual quality of the site. Wherever possible on the project, developers are encouraged to use low-impact development (LID) techniques and materials.

    (1) *Types of vegetation*. Up to 25 percent of the landscaping may be evergreen. Up to 25 percent of the landscape area can include specialty paving, street furniture, and outdoor seating areas. Trees that are planted in the park strip shall meet the specifications described in the standard construction specifications of the city.

    (2) *Plant selection*. Plants selected for landscape areas shall consist of plants that are suited to the climate and soil conditions at the project site. Plants with similar water needs shall be grouped together as much as possible. Drought tolerant plants are encouraged. Areas with slopes greater than 20 percent shall be landscaped with deep-rooting, water-conserving plants for erosion control and

soil stabilization.

(3) *Mulch*. After completion of all planting, all irrigated nonturf areas shall be covered with a minimum four-inch layer of mulch to retain water, inhibit weed growth, and moderate soil temperature.

(4) *Size of trees*. The following standards apply to trees used in the required landscaping of the development.

(A) *Deciduous trees*. Deciduous trees shall have a minimum caliper size of two inches.

(B) *Ornamental trees*. Ornamental trees shall have a minimum caliper size of 1.5 inches.

(C) *Evergreen trees*. Evergreen trees shall have a minimum height of six feet.

(5) *Xeriscaping*. The developer is encouraged to use xeriscaping for a portion of the required landscaping.

d. *Vegetation protection*. The property owner must protect existing significant vegetation during any development activity. Development plans must show all significant vegetation within 20 feet of a proposed development.

e. *Removal*. No landscaping may be removed without replacement of equal quality. This shall include the installation of healthy plant materials as well as a tree for tree replacement as governed by this section. Utilities and others that disturb landscaped areas shall restore disturbed landscaping to previous condition.

7. *Parking plan*. Show parking/loading computations for proposed use. Developments shall provide adequate parking, both for residents and their guests, based on the following standards:

a. *Garage parking*. Attached housing shall provide a minimum of one garage parking space for each unit, which shall be owned by the person who owns the housing unit.

b. *Off-street parking*. Housing within the development shall provide the following off-street parking spaces.

(1) Single-family detached; four per unit.

(2) Single-family attached/townhome; two per unit plus 0.25 guest spot per unit.

(3) Duplex; two per unit.

(4) Apartments (zero to one bedroom); 1.5 per unit plus 0.25 guest spots per unit.

(5) Apartments (two or more bedroom); two per unit plus 0.25 guest spots per unit.

(6) At least one of the required parking spaces for apartment shall be a designated, covered parking space.

(7) Required visitor parking shall be spaced throughout the development in order to provide ease of access to all dwelling units.

c. *Parking space dimensions*. Dimensions for all required parking, both on- and off-street, as well as any required handicapped parking, are outlined in the city engineering design standards.

d. *Bicycle parking*. New construction of and additions to retail/commercial structures and multiunit dwellings must provide bicycle parking spaces.

(1) Multiunit dwellings must provide at least one space per four units if units do not have a private garage or private storage space for bike storage, or ten percent of the required off-street parking spaces, whichever is greater.

(2) Bicycle spaces must accommodate bicycle storage medium security racks, in which the user may lock both the bicycle frame and the wheels. The spaces must be designed to prevent damage to the bicycle and to facilitate easy and secure storage without interference from or to adjacent bicycles. Bicycle racks or lockers must be anchored and of solid construction, resistant to rust, corrosion, hammers, and saws.

(3) Bicycle spaces must be compatible in design and function with the surrounding buildings and with surrounding street fixtures.

(4) Bicycle repair and maintenance station. A minimum of one bicycle repair station per development or one per 25 bicycle parking spaces, whichever is greater, must be installed.

(5) Bicycle facilities must be located in convenient, highly visible, active well-lighted areas, but shall not interfere with pedestrian movements and snow storage.

8. *Mailboxes*. Developer shall be required to coordinate placement of clustered mailboxes with the United States Postal Service.

9. *Miscellaneous site development standards*.

    a. *Walkways and paths*. Each development shall include common area pedestrian-friendly walkways and paths. Where possible, such walkways and paths shall connect to a larger trail system. The general location and design of such walkways and paths shall be presented as part of the preliminary site plan. The construction type, size and exact location shall be part of the final development of each phase. All walkways and paths shall be provided with adequate safety lighting.

    b. *Fixtures and appurtenances*. The type and location of any fixtures or appurtenances (lighting, benches, bike racks, etc.) shall be submitted as part of the final development of each phase and shall be reviewed/approved by the city planning commission.

    c. *Public infrastructure*. All public infrastructure improvements shall be constructed according to the city design standards and specifications.

    d. *Lighting*. In order to maintain the residential character in order to shield the lighting from shining on to another residence or lot, all lighting within a development governed by these standards shall be Dark Sky compliant.

    e. *Signage*. All signage within an LCR shall be in accordance with the city code regulating signage.

    f. *Electric vehicle charging station requirements (EVCS)*.

        (1) *Electric vehicle charging stations*. Electric vehicle charging stations are an allowed accessory use in all zoning districts.

        (2) *Infrastructure*. An applicant shall provide electric vehicle charging station infrastructure for five percent of the first 100 required off-street parking spaces for multiunit dwellings and nonresidential development and for five percent of required off-street parking spaces above 100.

            (A) The electric vehicle charging station infrastructure shall be identified on all construction documents submitted for review.

            (B) To put future property owners on notice of the electric vehicle charging station infrastructure, an

applicant shall provide information in covenants, conditions, and restrictions or other documents governing a homeowners' or master owners' association for the development and/or on the breaker panel.

(3) *Installation*. An applicant shall install electric vehicle charging stations for five percent of required off-street parking spaces for multiunit dwellings and nonresidential development for the first 200 parking spaces.

(A) The first electric vehicle charging station installed shall be a dual-port with one charging station that is ADA accessible. This dual-port shall count as one charging station. Dual-port charging stations installed thereafter shall count as two charging stations.

(4) *Standards*.

(A) *Location*. Electric vehicle charging stations shall not obstruct:

(a) Building access;

(b) Rights-of-way;

(c) Sidewalks or pathways;

(d) Parking space dimensions; or

(e) The sight distance triangle.

(5) *Solar energy systems*. Solar energy systems may be installed on permanent parking area structures for electric vehicle charging stations. Solar energy systems shall be incorporated in the roof of the permanent structure and shall be mounted to the roof plane. Solar panels, solar devices, and solar energy systems and mounting equipment shall use nonreflective finishes such as an anodized finish.

10. *Phasing*. The development shall be phased to provide both public and private infrastructure, facilities, amenities, and services in a timely and orderly manner and provide the city the ability to protect and promote public health, safety, and welfare.

a. Phases shall be planned to ensure the efficient and consecutive construction of adjacent (those phases immediately next to the subject phase, sharing a common boundary line) and future phases, and ensure that phased development does not allow for leapfrog development.

b. Generally, each proposed phase shall provide not less than a proportionate share and may be required to provide more of required open space, recreation facilities, and/or dedications for public use concurrent with development.

    (1) If an amenity cannot be built and utilized in phases (e.g., swimming pool), construction of the entire improvement is required when 30 percent of the units are complete.

    (2) When 75 percent of the units are complete, 100 percent of the amenity improvements must be complete.

c. All phases shall be required to be stand-alone. No proposed prior phase shall be dependent on the completion of subsequent phases to be consistent with any required approvals and/or conditions, including, but not limited to, the looping of roads and utilities, the provision of fire flow and the mitigation of transportation, recreation and/or public services impacts. Landscaping and parking improvements shall be provided within each phase as required.

d. Infrastructure improvements that are required to serve the entire project may be constructed within a nonadjacent phase.

e. Phasing plans shall include the following information:

    (1) Illustrative maps for each proposed phase which clearly mark in heavy lines the boundaries of the subject phase, label the phase alphabetically (to avoid confusion with lot numbers) and depict roads, lots, infrastructure, easements, dedications, and open space, should be shown on the map shaded or gray-scaled. All phasing maps shall be drawn at the same scale.

    (2) A narrative description or table that describes each phase and its associated improvements. In addition, the narrative or table shall demonstrate that each phase would comprise a stand-alone development which, should no subsequent phases be constructed, would meet or exceed the standards of this title and all other conditions of approval. The narrative should also describe the proposed timeline for completion of the entire project and any proposals to

bond for required unbuilt or yet-to-be constructed improvements.

f. Choosing to phase a development does not relieve the developer of the requirement to present the entire development in its phases for preliminary approval by the planning commission. Nor does it relieve the developer of the requirements to extend all public infrastructure to the boundary lines of the development.

E. *Project approval process*.

1. *Procedure*. In addition to the actions and considerations listed in this section, developers shall be required to follow the approval procedures outlined in this Code.
2. *Development considerations*. In approving with conditions, denying or approving an LCR proposal, the planning commission shall consider whether or not the proposed project meets the standards and conditions outlined in this chapter.
3. *Planning commission action*. The planning commission, subject to the requirements of this chapter, may approve the project, deny the project, or approve the project with conditions.
4. *Revisions*. In the event an approved preliminary or final site plan requires revision by the developer, the site plan and any revision will be submitted for approval to the planning commission. In the event revision is for a final site plan, all property owners in the development shall be notified in writing by the planning commission that a revision has been submitted and will be considered by the planning commission.
5. *Approved plans*.
    a. Upon approval of a preliminary plan or revised preliminary plan, the applicant shall prepare a copy of the approved plan for signature of the owner, the applicant, and the land use authority.
    b. Upon approval of a final plan or a revised final plan, the applicant shall prepare a copy of the approved plan for signature of the owner, the applicant, and the land use authority.
6. *Infrastructure minimum improvements*. Infrastructure minimum improvements shall be completed and in place before the city will issue a building permit for any lot within the proposed development.
    a. The city considers the following public and/or private infrastructure minimum improvements essential or required to meet the building code, fire code, flood or stormwater management provisions, street

and access requirements.

(1) All grading of roads and/or that portion of parking area (including pit run and road base) that serve as access to buildings as shown on the approved construction drawings, and all curb, gutter, and all utility trenches that lay inside the roadway;

(2) All stormwater (excluding finish grades and landscaping), water, sewer, and other improvements that may be deemed essential necessary public safety improvements; and

(3) Egress and ingress to provide acceptable and safe travel to and from each proposed structure in the approved development plan.

b. *Inspection*. All required testing results and redline drawings must be turned in to the city before the minimum improvement inspection takes place. An inspection of the minimum improvements shall be made, and the city engineer will certify to the city, in writing, that the minimum improvements are complete prior to the issuance of any building permits.

c. Asphalt shall not be laid prior to a minimum improvement inspection approval.

7. *Improvement completion assurance; improvement warranty*.

a. *Improvement completion assurance*. Before an applicant conducts any development activity or records a plat, the applicant shall:

(1) Complete any required landscaping or infrastructure improvements; or

(2) Post an improvement completion assurance for any required landscaping or infrastructure improvements (does not include infrastructure that is required to be private) of 100 percent of the incomplete or unaccepted landscaping or infrastructure.

b. *Improvement warranty*. Up on acceptance of the landscaping and infrastructure improvements (does not include infrastructure that is required to be private) by the city, the applicant shall post a surety bond, letter of credit, or other similar security in an amount of ten percent of the lesser of the:

(1) Municipal engineer's original estimated cost of completion; or

(2) Applicant's reasonable proven cost.

8. *Building permit issuance*. The building inspector shall not issue any permit for the proposed building or use within the project unless such building or use is in accordance with the approved development plan and any conditions imposed. Approved development plans shall be filed with the city.

9. *Time limit*. Unless there is substantial action leading toward completion of an HD project or an approved phase thereof within one year from the date of approval, such approval shall expire unless after reconsideration of the progress of the project an extension is approved. Only one extension shall be granted and shall be limited to one additional year.

(Code 1998, § 10-8-9; Ord. No. 033-2004, 11-23-2004; Ord. No. 004-2005, 1-18-2005; Ord. No. 011-2009, 12-8-2009; Ord. No. 007-2010, 8-10-2010; Ord. No. 006-2011, 7-26-2011; Ord. No. 014-2012, 9-25-2012; Ord. No. 015-2013, 11-7-2013; Ord. No. 005-2014, 9-23-2014; Ord. No. 2015-015, 6-9-2015; Ord. No. 2015-016, 7-14-2015; Ord. No. 023-2016, 10-11-2016; Ord. No. 2018-004, 4-24-2018; Ord. No. 2018-011, 10-23-2018; Ord. No. 2020-003, 2-19-2020; Ord. No. 013-2021, att.(10-8-9), 10-20-2021)

## CHAPTER 10-9 SUPPLEMENTARY REGULATIONS WITHIN ALL DISTRICTS

10-9-1 Applicability
10-9-2 Corner Lot Obstruction
10-9-3 Irrigation Waters
10-9-4 Frontages; Curb, Gutter And Sidewalk
10-9-5 Lot Area; Other Buildings
10-9-6 Accessory Buildings

### 10-9-1 Applicability

The regulations in this chapter shall supplement all regulations of all districts in this title, unless otherwise specifically detailed herein.

(Code 1998, § 10-9-1; Zon. Ord., 5-8-1991; Ord. No. 011-2009, 12-8-2009; Ord. No. 2018-012, 10-23-2018)

### 10-9-2 Corner Lot Obstruction

A. Obstruction of vision on corner lots within 30 feet of said corner right-of-way shall not be permitted from two feet to eight feet above finished grade of road. Trunks of trees, open-work fences at least 70 percent transparent, light or telephone poles or other small vertical protrusions not more than 12 inches in diameter shall be permitted within the clear-view area.

1. Obstruction of vision within ten feet of intersection of a private drive with a city right-of-way will not be permitted. Trunks of trees, open-work fences at least 50 percent transparent, light or telephone poles or other small vertical protrusions not more than 12 inches in diameter shall be permitted within the clear-view area. However, vertical protrusions of up to 24 inches in width may be allowed in driveway clear-view area.
2. Obstruction of vision within 20 feet of intersection in a MX district will not be permitted. Trunks of trees, open-work fences at least 70 percent transparent, light or telephone poles or other small vertical protrusions not more than 12 inches in diameter shall be permitted within the clear-view area. Nonpermanent street signs greater than two feet in height are not permitted within the clear-view area.
3. Fence height is measured from the finished grade on its uphill side, where there is a grade difference.

(Code 1998, § 10-9-2; Ord. No. 98-OM006, 3-24-1998; Ord. No. 011-2009, 12-8-2009; Ord. No. 2018-012, 10-23-2018)

**10-9-3 Irrigation Waters**

Changes in any irrigation water system, including the rerouting or alteration of open ditches, shall be approved by the city and the associated water company before any alteration or construction begins. Where said water system resides and terminates on one private lot, approval by the city and the water association shall not be required.

(Code 1998, § 10-9-3; Zon. Ord., 5-8-1991; Ord. No. 011-2009, 12-8-2009; Ord. No. 2018-012, 10-23-2018)

**10-9-4 Frontages; Curb, Gutter And Sidewalk**

Unless specifically exempted, any project requiring a development and/or building permit for a primary structure (constructed after November 1, 2018) shall require that the owner and/or their agents and assigns construct, improve, or install frontage improvements in accordance with city standards, including, but not limited to, the city standards and specifications manual.

A. Required improvements may include one or more of the following:
    1. Dedication of right-of-way. Refer to the city department of public works standards and specifications manual for street right-of-way width.
    2. Grading to future right-of-way.
    3. Design of structures to accommodate future right-of-way.
    4. *Sidewalks*. Sidewalks shall be concrete and a minimum five feet wide

and a minimum four inches thick. All sidewalks that cross residential driveways shall be six inches thick minimum. All sidewalks that cross commercial driveways shall be eight inches thick minimum. Sidewalks at all intersections of public streets shall conform to adopted American Disabilities Act standards.

5. *Curb and gutter or swales*. Refer to the city department of public works standards and specifications manual for streets requiring curb and gutter or swales.

    a. Minimum grades for curb and gutters and streets shall not be less than 0.5 percent, and from the crown of road to the lip of the curb shall be a minimum of two percent.

    b. Swales may be designed to replace curb and gutter. Designs shall include, but are not limited to, providing methods and planting materials that will be used to ensure the integrity of the swale is maintained in a manner that will prevent erosion of soils and infiltration of silt and other materials along the swale area and into storm retention systems, streets, and other properties. The developer is responsible to maintain the swales for a warranty period of two years.

6. *Park strips*. Park strips shall be at least seven feet wide. At the sole discretion of the city engineer, when connecting with existing infrastructure, the required width of the park strip may be increased or reduced to match the existing infrastructure.

7. *Stormwater*. The developer shall have the responsibility of providing for on-site stormwater retention/detention. If off-site retention/detention is required, the developer shall have the responsibility of providing off-site storm drain extensions in order to satisfactorily dispose of drainage.

8. Planting of street trees and other landscaping. Refer to PCC 7-1-8 for park strip requirements.

9. Setbacks from the property line or dedication of right-of-way to accommodate required improvements.

B. *Determining the frontage to be improved*. It is the city's intent that the entire length of frontage for the property shall be improved.

    1. *Exception*. When a parcel is larger than the surrounding parcels and/or lots the city may reduce the frontage improvement requirement. In determining the reduced improvement requirement, the city will consider the greater of the following:

        a. Minimum frontage for the property zone.

b. Minimum frontage for the structure and required side setback.

c. Gaps and distance to street corner or property line. If the distance to the street corner or property line and or amount to complete a gap is 50 percent or less than the length of the required frontage, completion of the gap or to the corner will be required.

2. Where curb, gutter and/or sidewalk previously installed by the city exists on a proposed building lot or development, then compensation of said improvements at current installation costs shall be made by the owner and/or their agents and assigns to the city. The city reserves the right to negotiate the placement and compensation requirements described in this section. Compensation shall be as follows: 100 percent of the pro rata share during the first five years following the date of completion of the improvements by the city. The pro rata share shall be depreciated 20 percent per year thereafter, and no pro rata share shall be due to the city after ten years following the completion date of the improvements by the city.

3. *Preconstruction meeting*. A preconstruction meeting will be held with the owner and/or the owner's agents and assigns, the general contractor for the project, and city staff prior to beginning any construction on the project.

a. It is the owner's and/or their agents and assigns responsibility to notify the general contractor and all appropriate subcontractors for the project of their required attendance at the preconstruction meeting.

b. If applicable, the stormwater notice of intent (NOI) and stormwater pollution prevention plan (SWPPP) must be in place prior to the preconstruction meeting.

(Code 1998, § 10-9-4; Ord. No. 97-OM001, 1-28-1997, eff. 1-29-1997; Ord. No. 011-2009, 12-8-2009; Ord. No. 2018-012, 10-23-2018)

**10-9-5 Lot Area; Other Buildings**

Other than in the Mixed-Use District, no portion of a lot area, open space, off-street parking area or yard required about or in connection with any building or use for the purpose of complying with this title may be included as part of a lot area, open space, off-street parking area or yard similarly required for any other building or use.

(Code 1998, § 10-9-5; Zon. Ord., 5-8-1991; Ord. No. 011-2009, 12-8-2009; Ord. No. 2018-012, 10-23-2018)

## 10-9-6 Accessory Buildings

No accessory building or group of accessory buildings shall occupy more than 25 percent of the area of any side or rear yard of any required main building or principal use setback.

(Code 1998, § 10-9-6; Zon. Ord., 5-8-1991; Ord. No. 011-2009, 12-8-2009; Ord. No. 2018-012, 10-23-2018)

## CHAPTER 10-10 (RESERVED FOR FUTURE USE)

## CHAPTER 10-11 MANUFACTURED HOUSING REGULATIONS

10-11-1 Zones Permitted
10-11-2 Manufactured Home Classifications
10-11-3 Site Development Standards
10-11-4 Park Regulations
10-11-5 Subdivision Regulations

## 10-11-1 Zones Permitted

Manufactured homes shall be permitted in zones shown for such use as detailed in the use chart contained in PCC 10-6-1. All yard, space, lot and setback requirements shall be complied with for the respective zone in which the manufactured home is located. Manufactured housing located in an MH district shall be place only on lots that conform, at a minimum, to the R2 district yard, space, lot and setback requirements.

(Code 1998, § 10-11-1; Zon. Ord., 5-8-1991)

## 10-11-2 Manufactured Home Classifications

For purposes of these regulations, manufactured homes shall be limited to use as single-family dwelling units and classified into the following classes:

A. *Class A*. New manufactured homes certified as meeting the National Mobile Home Construction and Safety Standards Act of 1974 (effective June 15, 1976) of HUD and have not been altered in violation of said law and applicable regulations.

B. *Class B*. Unaltered, undamaged, used manufactured homes certified as meeting the federal standards specified in subsection A of this section and continuing to be in excellent condition and safe and fit for residential occupancy.

(Code 1998, § 10-11-2; Zon. Ord., 5-8-1991)

## 10-11-3 Site Development Standards

Manufactured homes and the sites they are located on are to be held in common ownership, taxed as real estate and shall conform to the following regulations:

A. *Installation*. Each manufactured home shall be installed, with or without a basement, on a site-built, permanent foundation system that meets or exceeds applicable requirements of the state and city building codes as detailed in guidelines for manufactured housing installations. Permanent masonry perimeter enclosures shall be required for manufactured home installation and shall conform to the state and city building codes as specified for foundation walls. Exposure of foundation above adjacent, finished grade, visible from the public right-of-way, shall be a minimum of six inches with a maximum of 18 inches.

B. *Appearance*. The property, when installation is complete, must have the appearance of an on-site, stick-built, single-family dwelling and be compatible with adjoining properties containing conventional or traditional dwellings.

C. *Roof*.

    1. *Rise*. The roof shall have a minimum of a three-foot rise to a 12-foot run pitch with six-inch eaves and gable overhangs. Rain gutters may be regarded as part of the required eaves overhang.

    2. *Materials*. Roofing materials shall be composition asphalt shingles or other shingle material preapproved by the building inspector.

D. *Siding*. Exterior siding and trim materials shall consist of durable, weather-resilient materials approved for dwelling construction in the building codes such as masonry, stucco, woods, composition, glass, vinyl and steel or aluminum residential siding. In no case may corrugated metal, fiberglass, plastics or typical trailer coach or recreational vehicle-type coverings be used.

E. *Hitches*. Towing hitches and running gear, including tongues, axles, brakes, wheels, lights and other parts of the chassis that operated only during transport shall be removed.

F. *Utility connection*. Permanent connection off all services shall be made to local utilities (utility authority approval required). This shall include two hose bibs (outdoor faucets) when not contained within the manufactured home.

G. *Off-street parking*. Two off-street parking stalls (nine feet by 20 feet per stall), shall be provided per manufactured home. Parking shall conform to all yard setbacks.

H. *Accessory uses*. Any and all appendages or accessory uses such as steps, stoops, carports, garages, storage units, antennas, satellite dishes, patios and awnings or additions and alterations shall conform to applicable codes. Main entry steps, stoops and porches shall have handrails as required.

I. *Permitted classification*. Only Class A manufactured homes shall be permitted on residential lots other than in an MH zone.

J. *Landscaping*. The area within the public right-of-way between the curb and gutter or road shoulder and sidewalk shall be landscaped and maintained by the adjacent property owner. Street trees shall be as according to the city parks and recreation department.

(Code 1998, § 10-11-3; Zon. Ord., 5-8-1991)

## 10-11-4 Park Regulations

A manufactured home park shall be classified as a parcel of land under single ownership on which two or more manufactured homes are occupied as residences with continuing local management and which may include special facilities for common use such as recreational buildings, open areas, laundries, etc. Manufactured home parks shall meet the following requirements:

A. *Planting strip*. A planting strip 15 feet in width around the outside boundary of the development in which shall be planted screening shrubs and trees, or a screening fence, or both as required by the city.

B. *Facilities; utilities*. Adequate roads, drainage sewer and water facilities and other necessary utilities shall be provided as required by the city.

C. *Foundation; skirting*. Each manufactured home shall be places upon an approved foundation system and skirted (as required by the city) with material which has acceptable similarity and durability as the material which covers the manufactured home. Said skirting, if required, shall be approved by the manufactured home park manager and the building inspector.

D. *Off-street parking*. Two off-street parking stalls (nine feet by 20 feet per stall), shall be provided per manufactured home as approved on the site plan. Parking shall conform to all yard setbacks.

E. *Permitted classifications*. Only Class A and B manufactured homes shall be permitted in a manufactured home park developed after the effective date of the ordinance from which this chapter is derived.

F. *Improvements*. Manufactured home parks shall provide all necessary improvements as contained in PCC title 11. Manufactured home parks shall also be submitted and approved as is described in PCC title 11.

(Code 1998, § 10-11-4; Zon. Ord., 5-8-1991)

## 10-11-5 Subdivision Regulations

Manufactured home subdivisions shall be designed, platted and intended for the sale of lots for residential occupancy by manufactured homes. The real property and the manufactured home installed thereon are to be held in common ownership (privately

owned by the occupant) and shall be taxed as real estate. All lots shall conform to the area, space and yard setback requirements of the R2 district (see PCC 10-8-1). Single-family detached (conventional) dwelling units may also be permitted, provided lots upon which said dwellings are constructed conform to R2 district area, space and yard setback requirements. Manufactured home subdivisions shall meet the following requirements:

A. *Planting strip*. A planting strip 15 feet in width around the outside boundary of the development in which shall be planted screening shrubs and trees, or a screening fence, or both as required by the city.

B. *Foundation*. Each manufactured home shall be installed with or without a basement on a site-built, permanent foundation system that meets or exceeds applicable requirements of the state and city building codes as detailed in guidelines for manufactured housing installations. Permanent perimeter enclosures shall be required for each manufactured home installation and shall conform to the state and city building codes as specified for foundation walls.

C. *Off-street parking*. Two off-street parking stalls (nine feet by 20 feet per stall), shall be provided per manufactured home as approved on the site plan. Parking shall conform to all yard setbacks.

D. *Permitted classifications*. Only Class A and B manufactured homes shall be permitted in a manufactured home subdivision after the effective date of the ordinance from which this chapter is derived.

E. *Improvements*. Manufactured home subdivisions shall provide all necessary improvements as contained in PCC title 11. Manufactured home subdivisions shall also be submitted and approved as is described in PCC title 11.

F. *Appearance*. The installation of the manufactured home and property shall have the appearance, when complete, of an on-site, stick-built, single-family dwelling unit which contains the following:

    1. A permanent masonry foundation system;
    2. Minimum 3:12 pitched roof;
    3. Composition asphalt shingles or other shingle material preapproved by the building inspector;
    4. Suitable eaves and gable roof overhangs, six-inch minimum which may include rain gutters; and
    5. Dwelling-type siding (no coach or RV-type coverings).

(Code 1998, § 10-11-5; Zon. Ord., 5-8-1991)

## CHAPTER 10-12 ACCESSORY APARTMENT UNITS

10-12-1 Purpose And Intent
10-12-2 (Reserved For Future Use)
10-12-3 Required Conditions
10-12-4 Legalizing Existing AAUs
10-12-5 Permit Regulations
10-12-6 Report To Council

**State law reference**—Internal accessory dwelling units, U.C.A. 1953, § 10-9a-530.

## 10-12-1 Purpose And Intent

The purpose of this chapter is to establish a city ordinance governing the construction and use of accessory apartment units (AAUs). AAUs are separate dwelling units attached to the primary residence. Chapter 13 of this title covers accessory dwelling units (ADU) which are detached from the primary residence.

(Code 1998, § 10-12-1; Ord. No. 002-2006, 1-10-2006; Ord. No. 006-2006, 6-27-2006; Ord. No. 2019-020, 10-22-2019)

## 10-12-2 (Reserved For Future Use)

## 10-12-3 Required Conditions

An accessory apartment unit (AAU) shall be allowed in all single-family residential zones provided that the following conditions and criteria are complied with:

A. *Number allowed*. Only one accessory apartment unit shall be permitted within a single-family dwelling unit.

B. *Occupancy*.

1. a. An AAU shall only be permitted when the property owner lives on the property within either the principal dwelling or AAU. For the purpose of this section, the term "owner occupied" shall be defined as full-time residency within the home by the bona fide property owner as shown on the county tax assessment rolls, or by any person who is related by blood, marriage or adoption, or a trustor of a family trust that possesses legal ownership of the property.

   b. Within 30 days of securing approval for construction of an AAU, the owner shall record against the deed to the subject property, a deed restriction running in favor of the municipality limiting occupancy of either the principal dwelling unit or the AAU to the owner of the property. Proof that such a restriction has been

recorded shall be provided to the city prior to issuance of the occupancy permit for the AAU.

c. Owner occupancy shall not be required when an owner has a bona fide temporary absence of two years or less for activities such as military service, temporary job assignments, work sabbaticals, or voluntary service.

d. Neither the primary dwelling unit nor the AAU may be sold or conveyed separately.

2. The accessory apartment unit shall be occupied by a single-family, as defined in U.C.A. 1953, § 10-9a-505.5(2)(b).

C. *Design; size*.

1. The accessory apartment unit shall be designed so that the appearance of the residence remains as that of a single-family dwelling unit. Entrances to the accessory apartment unit shall be located on the side or rear of the dwelling unit whenever possible. If a front entrance is required, it shall be visually screened from all public rights-of-way.

2. The design and size of the accessory apartment unit shall conform to all applicable health, building and other codes.

D. *Off-street parking*. No off-street parking requirement.

(Code 1998, § 10-12-3; Ord. No. 002-2006, 1-10-2006; Ord. No. 006-2006, 6-27-2006; Ord. No. 2019-020, 10-22-2019)

**10-12-4 Legalizing Existing AAUs**

A. Any existing illegal AAU will not be subject to any enforcement action if an application to legalize the AAU is submitted within 12 months of the adoption of these regulations.

B. Owners of illegal AAUs shall be guilty of a Class B misdemeanor and subject to a penalty listed in PCC 1-4-1. Any existing illegal AAU will not be subject to any enforcement action if:

1. The AAU owner applies for a permit to legalize the illegal AAU within 12 months of the adoption of these regulations.

2. The AAU complies with the minimum requirements of the International Residential Code within six months of the date of applying for a permit under this section.

3. The AAU complies with the minimum housing code standards within six

months of the date of applying for a permit under this section.

4. The AAU owner supplies the city with certification that the water supply and sewage disposal facilities are adequate for the AAU.

(Code 1998, § 10-12-4; Ord. No. 002-2006, 1-10-2006; Ord. No. 006-2006, 6-27-2006; Ord. No. 2019-020, 10-22-2019)

**10-12-5 Permit Regulations**

A. *Building permit*. A zoning permit shall be obtained by the homeowner from the city, and a building permit shall be obtained from the designated authority before the commencement of any new construction of an accessory apartment unit.

B. *Occupancy permit*. Prior to anyone occupying an accessory apartment unit, a certificate of occupancy shall be obtained by the homeowner from the designated authority.

(Code 1998, § 10-12-5; Ord. No. 002-2006, 1-10-2006; Ord. No. 006-2006, 6-27-2006; Ord. No. 2019-020, 10-22-2019)

**10-12-6 Report To Council**

The mayor and city staff shall report to the council once a year the number of new AAUs permitted during the previous 12 months. This report shall be made to the council no later than 30 days after the end of the calendar year.

(Code 1998, § 10-12-6; Ord. No. 002-2006, 1-10-2006; Ord. No. 006-2006, 6-27-2006; Ord. No. 2019-020, 10-22-2019)

## CHAPTER 10-13 ACCESSORY DWELLING UNIT ORDINANCE

10-13-1 Purpose And Intent
10-13-2 (Reserved For Future Use)
10-13-3 Permitted Use
10-13-4 Owner Occupied Requirement
10-13-5 Number Of Accessory Dwelling Units
10-13-6 ADU Size
10-13-7 Rear Yard Limitation
10-13-8 Building Height
10-13-9 Building Setbacks
10-13-10 Design And Materials
10-13-11 Fire, Building, And Health Codes
10-13-12 Parking
10-13-13 Utilities
10-13-14 Screening

10-13-15 Legalizing ADUs
10-13-16 Report To Council

## 10-13-1 Purpose And Intent

A. The purpose of this chapter is to establish a city ordinance governing the construction and use of accessory dwelling units (ADUs). ADUs are separate dwelling units detached from the primary residence. PCC chapter 10-12 of this title covers accessory apartment units (AAU) which are attached to the primary residence.

B. It is the policy of the city to promote and encourage the creation of legal ADUs in a manner that enhances residential neighborhoods while respecting the existing look and scale of single-family dwellings. The intent of this chapter is to provide for a broader range of affordable housing options that generate these benefits:

1. Provides an alternative for older homeowners who want to remain in their home and would like a family member, caretaker or renter to help make that possible so that elderly can age in place rather than inhabit senior living centers.
2. Make housing affordable for young people to live in desirable communities where single-family homes are out of their reach.
3. Contribute to solving the housing shortage.
4. Opens up areas for development potential without threatening the existing character of a neighborhood.
5. Adds inexpensive rental units to the housing stock to meet the needs of smaller households, both old and young.
6. Develops housing units in single-family neighborhoods to serve the needs of the residents through a variety of stages in the life cycle, thereby lessening fluctuations in neighborhood demand for services.
7. Requirement that owner be on the premises decreases the chance of ADU tenants inflicting nuisances on the surrounding neighborhood.
8. Provide an extra living space for a growing family.
9. Is intended to be a family friendly ordinance allowing for young and old to live together, for grown children to stay in the community that they love.
10. Enhance neighborhood stability with owners more likely to remain; allow current neighbors to stay through different stages of life.
11. Promotes more efficient use of existing housing stock and city infrastructure.

(Code 1998, § 10-13-1; Ord. No. 2019-003, 2-12-2019)

**10-13-2 (Reserved For Future Use)**

**10-13-3 Permitted Use**

ADUs are a permitted use in all residential zones. ADUs must comply with all applicable ordinances.

(Code 1998, § 10-13-3; Ord. No. 2019-003, 2-12-2019)

**10-13-4 Owner Occupied Requirement**

A. An ADU shall only be permitted when the property owner lives on the property within either the principal dwelling or ADU. For the purpose of this section, the term "owner occupied" shall be defined as full-time residency within the home by the bona fide property owner as shown on the county tax assessment rolls, or by any person who is related by blood, marriage or adoption, or a trustor of a family trust that possesses legal ownership of the property.

B. Within 30 days of securing approval for construction of an ADU, the owner shall record against the deed to the subject property, a deed restriction running in favor of the municipality limiting occupancy of either the principal dwelling unit or the ADU to the owner of the property. Proof that such a restriction has been recorded shall be provided to the city prior to issuance of the occupancy permit for the ADU.

C. Owner occupancy shall not be required when an owner has a bona fide temporary absence of three years of less for activities such as military service, temporary job assignments, sabbaticals or voluntary service.

D. Neither the primary dwelling unit nor the ADU may be sold or conveyed separately.

(Code 1998, § 10-13-4; Ord. No. 2019-003, 2-12-2019)

**10-13-5 Number Of Accessory Dwelling Units**

A maximum of one ADU shall be allowed on each property associated with a single-family dwelling.

(Code 1998, § 10-13-5; Ord. No. 2019-003, 2-12-2019)

**10-13-6 ADU Size**

The total area of the ADU shall be less than 50 percent of the total square footage of the primary residence for a detached accessory dwelling, but not more than 1,200 square

feet.

(Code 1998, § 10-13-6; Ord. No. 2019-003, 2-12-2019)

### 10-13-7 Rear Yard Limitation

Accessory buildings of any kind, which are customarily incidental to the permitted uses are limited to 25 percent of the rear lot area. Accessory buildings shall not be located in front of the primary dwelling unit.

(Code 1998, § 10-13-7; Ord. No. 2019-003, 2-12-2019)

### 10-13-8 Building Height

An ADU shall not exceed the height permitted by the zone assigned to the primary dwelling unit.

(Code 1998, § 10-13-8; Ord. No. 2019-003, 2-12-2019)

### 10-13-9 Building Setbacks

New ADUs are subject to the same ordinances that apply to the principal dwelling unit as far as zoning and setbacks. Existing structures as of February 23, 2022, that do not meet setback requirements may be approved on a conditional basis. Adjacent property owners will be notified, and a public hearing will be held before the administrative land use authority; which will either approve or deny the conditional use in accordance with the conditional use process.

(Code 1998, § 10-13-9; Ord. No. 2019-003, 2-12-2019; Ord. No. 02-2022, 3-16-2022)

### 10-13-10 Design And Materials

An ADU shall be of compatible design and materials and incorporate the same or substantially similar architectural features with respect to roof pitch, building materials, colors and design details of the primary dwelling unit.

(Code 1998, § 10-13-10; Ord. No. 2019-003, 2-12-2019)

### 10-13-11 Fire, Building, And Health Codes

An ADU shall comply with all building construction, fire codes and municipal codes in effect at the time the ADU is constructed, created or subsequently remodeled, including the obtaining of required building and other permits.

(Code 1998, § 10-13-11; Ord. No. 2019-003, 2-12-2019)

### 10-13-12 Parking

No off-street parking requirement.

(Code 1998, § 10-13-12; Ord. No. 2019-003, 2-12-2019)

**10-13-13 Utilities**

An ADU may utilize the existing utilities (City supplied culinary water and sanitary sewer) of the principal dwelling. An ADU that requires separate utility hookups will be subject to metering and city connection fees.

(Code 1998, § 10-13-13; Ord. No. 2019-003, 2-12-2019)

**10-13-14 Screening**

The orientation of the proposed ADU shall, to the maximum extent practical, maintain the privacy of residents in adjoining dwellings as determined by the physical characteristics surrounding the ADU, including landscape screening, fencing, and window and door placement.

(Code 1998, § 10-13-14; Ord. No. 2019-003, 2-12-2019)

**10-13-15 Legalizing ADUs**

Any existing illegal ADU will not be subject to any enforcement action if an application to legalize the ADU is submitted within 12 months of the adoption of these regulations.

Owners of illegal ADUs shall be guilty of a Class B misdemeanor and subject to a penalty listed in PCC 1-4-1. Any existing illegal ADU will not be subject to any enforcement action if:

A. The ADU owner applies for a permit to legalize the illegal ADU permit within 12 months of the adoption of these regulations.

B. The ADU complies with the minimum requirements of the International Residential Code within six months of the date of applying for a permit under this section.

C. The ADU complies with the minimum housing code standards within six months of the date of applying for a permit under this section.

D. The ADU owner supplies the city with certification that the water supply and sewage disposal facilities are adequate for the ADU.

(Code 1998, § 10-13-15; Ord. No. 2019-003, 2-12-2019)

**10-13-16 Report To Council**

The mayor and city staff shall report to the council once a year the number of new ADUs

permitted during the previous 12 months. This report shall be made to the council no later than 30 days after the end of the calendar year.

(Code 1998, § 10-13-16; Ord. No. 2019-003, 2-12-2019)

## CHAPTER 10-14 SPECIAL DEVELOPMENTS

10-14-1 Cluster And Inner Block Development
10-14-2 Planned Unit Development

### 10-14-1 Cluster And Inner Block Development

A. *Land use*. Cluster and inner block developments provide more intensive use of land in further developing existing areas. Requests for cluster or inner block development proposals shall be forwarded to the land use authority for a special review process described herein.

B. *Review procedure*.

1. *Plan submission*. Applicants shall supply suitable plans and information concerning the location, function and characteristics of any use proposed to the city.

2. *Hearing; fee*. If a public hearing is required, the city may collect a fee upon development request for the purpose of covering the costs of advertising and/or mailing of notice. Such notice will be published in accordance with state code.

3. *Approval*. The land use authority may, approve, conditionally approve or reject the request. If approved conditionally, the written response or report shall be required to contain conditions, limitations or amendments to the development plan to ensure that the development is integrated into its surroundings and serves the public interest to the greatest extent possible. A copy of such response or report shall be furnished to the applicant without delay and additional copies shall be made available at the city office for other interested persons.

    a. Development that includes a subdivision of property shall be required to meet the subdivision requirements. Concept plan approval may be combined with a special request. Approval of a special request does not vest the development or guarantee subdivision approval.

4. *Endorsement of approval*. All approved site plans for development, including modifications and conditions, shall be endorsed by the land use authority chairperson as approval of the land use authority.

C. *General criteria and conditions*.

1. *Findings*. No special review application shall be approved by the land use authority unless the land use authority finds that the application:
    a. Complies with all requirements imposed by this title, PCC title 11, any other applicable city ordinance or regulation;
    b. Is consistent with the objectives and purposes of this title;
    c. Is designed to be compatible with surrounding land uses; and
    d. Is designed to be compatible with the physical features of the site upon which the proposed development will be placed.

2. *Modifications*. In considering an application for a cluster or inner block development, the land use authority may impose modifications or conditions concerning the following development features to the extent that such modifications or conditions are necessary to ensure compliance with criteria in subsection C.1 of this section:
    a. Size and location of site;
    b. Street and road capacities in the area;
    c. Ingress and egress to adjoining public streets;
    d. Location and amount of off-street parking;
    e. Internal vehicular circulation system;
    f. Fencing, screening and landscape separation;
    g. Building mass and location;
    h. Usable open space;
    i. Signs and lighting;
    j. Noise, vibration, air pollution and other environmental influences;
    k. Setback, yard and area requirements; and
    l. Others as deemed appropriate by the land use authority.

3. *Site plan amendments*. No approved development may be modified, structurally enlarged or expanded in ground area unless the site plan is amended and approved in accordance with the procedures applicable to original approval of the development.

4. *Number of dwelling units*. No increase in the number of dwelling units beyond that specified for the zoning district in which the site is located shall be allowed.

(Code 1998, § 10-14-1; Zon. Ord., 5-8-1991; Ord. of 1-9-2007; Ord. No. 2019-026, 12-4-2019)

## 10-14-2 Planned Unit Development

A. *Intent*. The intent of this chapter is:

1. Provide regulations that shall further the objectives of the general plan relating to residential developments.
2. Achieve a balance between open space and buildings, harmony between new development and the surrounding area, and an overall project atmosphere that concurs with goals for a more attractive city.
3. Ensure superior maintenance, and longer life expectancy of structures and environs.
4. Require the developer to demonstrate by the plans submitted for approval that the objectives and goals of the general plan have been fostered. If these requirements cannot be met, approval of the planned unit development with its inherent density increases will not be given.

B. *Procedure*.

1. Comply PCC 11-3-1.
2. Comply PCC 11-3-2.
3. Comply PCC 11-3-3.
4. Comply with PCC 11-4-4 through 11-4-11.
5. Comply with PCC 11-5-5 through 11-5-9;

   And include PCC 11-5-11 through 11-5-15.
6. A developer shall provide a written statement that describes the impact the development will have on natural features of the area. Include any measures taken to mitigate negative conditions that occur as a result of the project.
7. Provide a development agreement between the developer and the city, approved by the city attorney that includes the following:
   a. The developer shall construct and complete the project in accordance with the approved plans and in accordance with city ordinances.
   b. The terms of the contract shall be binding upon all successors of the PUD.

c. A landscaping plan shall be provided to the city and approved before occupancy permits are issued. The landscaping shall be completed as part of the project.

d. A perpetual, irrevocable homeowners' association shall be established prior to any occupancy permits issued. The owner/developer shall constitute a pseudo homeowners' association until sufficient occupants are available to establish an association according to CCR. The homeowners' association shall be responsible for the following:

(1) Maintenance of all water works in the PUD.

(2) The fire line shall be the responsibility of the city.

(3) A separate agreement will be generated with the city for right-of-way, easements and a method of payment for repairs.

(4) Maintenance of sewer lines, clearing, repair and controlling the sewer out fall from the PUD in accordance with PCC 8-2-12.

(5) Maintenance of grounds, plant trees, shrubs in accordance with the landscaping plan.

(6) Maintenance of streets, parking lots, sidewalks, playgrounds and other items described in the CCR.

(7) Collection and payment of city utility billings and other billings as designated by the CCR.

8. Declaration of management policies, covenants and restrictions setting forth the responsibilities and duties of the owners, renters, or occupants within the planned unit development.

9. Other documents that the land use authority deems necessary to carry out the intent of this title.

10. Fees are charged in accordance with a fee schedule set by the city council.

C. *Project density.* The permitted densities allowed in a planned unit development for each zone shall not exceed the 110 percent of density allowed in the use chart for the zone in which the PUD will be built.

D. *Permitted uses*.

1. Residential living and home businesses as shown on the use chart in PCC chapter 10-6.

2. Commercial will be allowed in areas that will be of benefit to the PUD and the community as a whole. Both service and commercial centers will be considered.
3. Recreation facilities.

E. *Standards and requirements*. The following standards, requirements and conditions shall apply to all planned unit developments:

1. *Design team*. The project must be prepared by a design team composed of a civil engineer, an architect, a landscape architect and an attorney, all of whom must be licensed to practice in the state.
2. *Sewer, water and utilities*. All dwelling units and commercial buildings will be served by the public sewer and a city water supply. All utilities will be placed underground.
3. *Project management*. One project manager designated by the owners will provide full supervision and control of the PUD during development and construction.
4. *Landscaping*. All areas not covered by buildings, parking, streets or drives shall be planted with plant materials as approved by the planning commission in a final landscape plan. A permanent sprinkler system shall be installed with back flow protection for all planted landscaping.
5. *Minimum land area*. The minimum land area for a PUD shall be two acres.
6. *Location and setbacks for dwellings and structures*. All structures on a public street shall have a 30-foot setback. On private roadways the setbacks will be a minimum of 20 feet.
7. *Open space*. Not less than 35 percent of the area of the PUD shall be retained in permanent open space, parks and playgrounds. Land used for streets, parking and driveways will not be used in the computation of open space, park or playground.
8. *Maximum height*. The maximum height of buildings within a PUD shall be 35 feet. Measured from an average grade to the highest point of the building.
9. *Minimum parking*. Two parking spaces for every dwelling unit shall be provided. One additional space for every three units shall be provided for guest parking. Commercial businesses will follow the parking requirements in PCC 10-8-5 and 10-8-6.
10. *Surfacing*. All parking spaces, parking areas and driveways shall be hard surfaced and properly drained with no drainage running across public or

private sidewalks or roadways.

11. *Installation of public improvements*. Developer shall install all public improvements on site and off site as identified by the land use authority. Additional requirements may be imposed in order to implement the intent of this section.

F. *Water systems*.

1. There shall be four water systems installed in a PUD, a fire line system, a culinary system, an outside irrigation system, and stormwater system. A PUD may contain any or all of the following: SFA, SFD, commercial and service centers, recreation facilities.

    a. *Fire line system*.

        (1) This system may take advantage of the water lines in the public way as long as the layout of the PUD permits all points of the buildings within approved distance to a hydrant.

        (2) A system shall be installed to provide fire protection for the building in a PUD. No point of a building shall be farther than 250 ft away from a fire hydrant. This system cannot be metered and back flow protected and cannot have services connected to it.

        (3) The city will be provided a right-of-way to access fire hydrants for flushing and repairs.

        (4) Repairs on fire hydrants not in the public right-of-way shall be billed to the association.

        (5) Fire hydrants will not be used by either the association or individuals for any purpose.

        (6) Fire hydrants shall be flushed by the city public works.

    b. *Culinary system*.

        (1) The culinary water system shall be serviced by one master meter.

            Exception: If a public road divides an approved PUD then, two master meters shall be used.

        (2) All meters shall be set in the public way.

        (3) All service lines shall be protected by an approved back

flow prevention assembly on the service side of the meter.

(4) All dwelling units shall be individually protected by an approved back flow prevention assembly.

(5) All water lines shall be located, maintained, repaired and governed by approved CCRs from the service side of the meter to the shutoff valve in the dwelling unit.

(6) Individual dwelling units shall have the following minimum items:

(A) Supply shutoff both inside and outside.

(B) Pressure reducer.

(C) Back flow prevention assembly.

(D) Expansion tank.

(E) Supply lines will not pass through, over or under another dwelling unit.

c. *Sprinkler system for outside irrigation*.

(1) Sprinkler system shall be approved by the city.

(2) Each system shall be serviced by a separate meter.

(3) Each system shall be serviced by an approved back flow prevention assembly designed for sprinkler systems.

(4) Each back flow protection unit shall be registered with the city and have a certified test submitted to the city annually prior to the start of the irrigation season.

(5) Each sprinkler system shall be designed by an approved agency and sized in accordance with the adopted plumbing code.

(6) Sprinkler systems that have the option of being connected to a nonpotable water supply are illegal except as approved.

d. *Stormwater system*.

(1) Stormwater systems shall meet the requirements listed in PCC 7-8-1, 8-4-5 and 11-4-8.

(2) The homeowners' association shall be responsible for repair and maintenance of all privately-owned stormwater

infrastructure.

G. *Water impact fees and billing services*.

1. The water impact fees have been established by the city through extensive analysis of the impact of each dwelling unit on the system. The methodology is accountable to the off-site infrastructure, supply and storage requirements. The impact fees are established on the basis that there is one connection per dwelling unit. The standard basic connection is a one-inch line. An impact fee on this basis will be imposed on each dwelling unit within the PUD. If any structure, other than a dwelling unit, such as a club house, business or pool that requires a higher demand than a one-inch supply, the impact fee for that structure will be imposed according to the fee schedule, published in the city office.
    a. All impact fees will be levied upon issuance of a building permit in accordance with an established fee schedule. Water impact fees are established for:
        (1) Dedicated fire lines.
        (2) Meter for sprinkler.
        (3) Meters for dwelling units.

2. Monthly billing for water service:
    a. Each DU will be assessed a base rate as established by the current rate schedule. The homeowners' association will receive the billing and be responsible for payment.
    b. Any structure other than a DU will also be billed to the association. Fees will be based on current established rates.
    c. Overage charges will be based on current established rates and will be billed to the association.
    d. Fees for the sprinkler system will be billed to the association.

H. *Sewer system*.

1. A sewer system will be installed to service a PUD. A PUD may contain any or all of the following: SFA, SFD, commercial and service centers, recreation facilities.
2. No PUD shall be approved without connecting to the city public sewer system. All units must be connected to the system.

3. In addition to the city sewer ordinance, this section will provide specific requirements:

    a. Each dwelling unit shall be served with a building sewer which will not be less than four inches in diameter.

    b. A dwelling unit drain/sewer shall go directly to the common area and will not pass through, under or over any other dwelling unit or building.

    c. A dwelling unit sewer shall be serviced by a common sewer. The common sewer may service more than one dwelling unit, however, the common sewer will be sized according to the presently adopted plumbing code.

    d. A dwelling unit clean out shall be provided as per the adopted plumbing code. Clean outs for the common sewer shall also be according to the plumbing code with the addition of a clean out at the property line, with a brass cap. There will also be a clean out at the farthest upstream end of the pipe. This clean out shall be in the commons area and shall also have a brass cap. Additional clean outs may be required based on length and bends as per the plumbing code.

    e. Each dwelling unit will be provided with a back water valve as per the plumbing code.

I. *Sewer impact fees and billing service*.

1. The sewer impact fees have been established by the city through extensive analysis of the impact of each dwelling unit on the system. The methodology is accountable to the off-site infrastructure and future up sizing of sewer lines to accommodate new growth. The impact fees are established on the basis that there is one connection per dwelling unit. The standard out fall line per dwelling unit is a four-inch line. An impact fee as established by the city for a dwelling unit will be assessed on each dwelling unit. If any structure other than a dwelling unit requires a larger service, as determined by the water line size input to that structure, an impact fee for that structure will be imposed according to the size of the supply line and according to the schedule published in the city office.

2. All impact fees will be levied upon issuance of a building permit in accordance with an established fee schedule.

3. Monthly billing for sewer services.

    a. Each DU will be assessed a base fee established by the current rate schedule. The homeowners' association will receive the

billing and be responsible for payment.

b. Any service to another structure other than a DU will be billed to that association and based on the current established rate.

c. Any pretreatment fees will be billed to the association.

J. *Stormwater impact fees and billing services*.

1. The establishment of stormwater impact fees will follow the requirements of the state code.

2. Monthly billing for stormwater services.

    a. Stormwater fees will be billed fees established by the current rate schedule. The homeowners' association will receive the billing and be responsible for payment.

K. *Right-of-way, public and private*.

1. *Public right-of-way*. All public rights-of-way will be designed and constructed in accordance with the city department of public works standards and specifications for public right-of-way.

2. *Private right-of-way*. Private rights-of-way may be allowed in a PUD subject to the following requirements:

    a. All private rights-of-way must meet public safety and fire code requirements.

    b. PUD must provide for pedestrian traffic, either in connection with the right-of-way or in another suitable location within the PUD.

    c. PUD must plan for stormwater generated by the right-of-way.

L. *Road and park impact fees*.

1. The road and park impact fees have been established by the city through extensive analysis of the impact of each dwelling unit on the system.

2. All impact fees will be levied upon issuance of a building permit in accordance with an established fee schedule.

M. *Land use authority action*.

1. *Findings*. Before approval of the preliminary plat, the land use authority must make the following findings:

    a. That the development provides an attractive living environment.

b. That the proposed development creates no detriment to adjacent properties nor to the general area in which it is to be located.

c. That the PUD shall provide more effective use of the land with more usable open space than a conventional development.

d. That increased densities allowed in an area shall be compensated by better site design and increased amenities and recreational facilities.

e. That the development shall not create a hazard to any part of our community.

f. That the PUD is in compliance with all ordinances and the intent of this chapter.

2. *Approval*. Upon presentation of the preliminary plat and documents, the land use authority will approve them as submitted, approve them with conditions, or refer them back to the developer for one or more of the following reasons:

    a. The land use authority determines the project to be inconsistent with the intent of the section.

    b. The land use authority requires that certain specific changes be made within the plans.

    c. The plans or documents are not complete or are poorly prepared.

    d. Fees have not been paid by the developer.

3. *Imposition of conditions*.

    a. The land use authority may impose such conditions on preliminary development plans as it may deem appropriate to meet the goals and objectives of this section.

    b. The land use authority may disapprove a PUD that is found to be deficient in meeting the intent of these provisions.

4. *Time limit of approval*. Any failure to submit a final development plat within one year of the approval of the preliminary plat will terminate all proceedings and render the preliminary plat null and void.

N. *Failure to comply with regulations*. In case of failure or neglect to comply with any and all conditions as established by law and the supporting documents of the PUD, the city will refuse to issue additional building permits, stop construction until violations or noncompliance conditions have been eliminated.

(Code 1998, § 10-14-2; Ord. No. 013-99, 8-24-1999; Ord. No. 007-2003, 8-12-2003; Ord. of 1-9-2007; Ord. No. 2019-026, 12-4-2019)

## CHAPTER 10-15 SIGN REGULATIONS

10-15-1 (Reserved For Future Use)
10-15-2 Permit Required
10-15-3 Application For Permit
10-15-4 Fee For Permit
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10-15-6 Rules, Regulations, And Requirements
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10-15-8 Illumination
10-15-9 Electronic Message Displays (EMD)

**State law reference**—Billboards, U.C.A. 1953, § 10-9a-513.

### 10-15-1 (Reserved For Future Use)

### 10-15-2 Permit Required

Unless otherwise provided in this chapter, all signs erected, altered or relocated within the city shall require a sign permit prior to its erection, installation, alteration or relocation, and must be in compliance with the provisions of this chapter.

(Code 1998, § 10-15-2; Ord. of 12-13-2005; Ord. No. 008-2009, 10-13-2009; Ord. No. 003-2014, 7-8-2014; Ord. No. 2016-019, 8-9-2016)

### 10-15-3 Application For Permit

Forms for a sign permit will be available in the city office during regular business hours. The permit application shall contain the following:

A. *Site plan*. Sign permit applications must contain a site plan drawn to scale indicating the location of the proposed signage, existing signage, existing and future buildings, property lines, streets, sidewalks, landscaped areas, driveways and clear-view (see PCC chapter 9) areas on corners, driveways or intersections.

B. *Sign drawing*. A drawing to scale indicating the type of sign, proposed sign dimensions, construction specifications, electrical components and wiring, method of attachment, and illumination specifications.

C. *Elevation*. An elevation drawing of existing and/or future buildings that will display the attached signage.

(Code 1998, § 10-15-3; Ord. of 12-13-2005; Ord. No. 008-2009, 10-13-2009; Ord. No. 12-

233; Ord. No. 003-2014, 7-8-2014; Ord. No. 2016-019, 8-9-2016)

**10-15-4 Fee For Permit**

Sign permit applications will be reviewed according to a fee schedule established by resolution of the city council and/or fees established by the International Building Code.

(Code 1998, § 10-15-4; Ord. of 12-13-2005; Ord. No. 008-2009, 10-13-2009; Ord. No. 003-2014, 7-8-2014; Ord. No. 2016-019, 8-9-2016)

**10-15-5 Permitted Signs; Table**

The signs described in the table as provided in this section shall be allowed within the provisions specified therein. Any sign not specifically permitted by this chapter is prohibited. Unless noted otherwise, the sign dimension regulations identified below are measured in linear feet.

| *Types* | *Structure* | | | *Face* | | | *Permitted Zones* | *Illumination Allowed* | *Permit Required* | *Additional Regulations* |
|---|---|---|---|---|---|---|---|---|---|---|
| | *Area Max. (sq. ft.)* | *Height Max. Linear ft.* | *Height Min. Linear ft.* | *Area Max. (sq. ft.)* | *Height Max* | *Height Min* | | | | |
| A-frame | 8 | 4 | | | | | CGD, CHD, CND, MXD | None | No | |
| Attached | | | | | | | | | | |
| Awning sign | Note 1 | 12 | | | | | CGD, CHD, CND, MXD | In | Yes | |
| Ballpark advertising banner | | | | 60 | | | All | No | No | |
| | | | | | | | | | | |
| Blade sign | | | | | | | | | | |
| Business sign | | | | | | | | | | |
| Electronic | 40 | 14 | | | | | CGD, CHD, | Pr | Yes | |

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| message | | | | | | | CND, MXD | | | |
| Flat sign (Notes 2 and 5) | 200 | 35 | | | | | CGD, CHD, CND, MXD | In-F1-Ne | Yes | |
| Ground | 160 | 14 | | | | | CGD, CHD, CND, MXD | In-F1-Ne | Yes | |
| Highway sign | 222 | 35 | | | | | CGD, CHD | None | Yes | |
| Home business sign | 3 | | | | | | Residential and AG | None | No | |
| Identification | 12 | 8 | | | | | All | In-F1 | Note 4 | |
| Inflatable | | | | | | | | | | |
| Low profile | 12 | 4 | 2 | | | | CGD, CHD, CND, MXD | In | Yes | |
| Menu sign | 24 | 6 | | | | | CGD, CHD, CND, MXD | Pr-In | Yes | |
| Monument | 100 | 7 | | | | | CGD, CHD, CND, MXD | In-F1-Ne-Pr | Yes | |
| Nameplate | 4 | 8 | | | | | All | None | No | |
| Off-premises sign | | | | | | | | | | |
| Political sign | | | | | | | All | | | |
| Projecting sign | 16 | 14 | | | | | CGD, CHD, CND, MXD | In-F1-Ne-Pr | Yes | |
| Property sign | 32 | 8 | | | | | All | None | No | |
| Service sign | 18 | 8 | | | | | All | In | Yes | |
| Street banner sign | | | | | | | | | | |
| Street Sign | | | | | | | All | | | |
| Temporary (Note 3) | 32 | | | | | | All | None | No | |

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| Temporary identification sign | 32 | 35 | | | | | CGD, CHD, CND, MXD | None | Yes | |
| Tower | | | | | | | | | | |
| Walking advertisers | | | | | | | | | | |
| Wall sign | 6 | 8 | | | | | CGD, CHD, CND, MXD | In | Yes | |
| Wind sign | | | | | | | | | | |
| Window sign | | | | | | | | | | |

Notes:

1. Width cannot exceed frontage of building.
2. May not project above roof line.
3. Temporary signs must be removed within 24 hours of event.
4. Permit not required if no illumination.
5. Or 20 percent of building face, whichever is smaller.
6. Must have a conditional use permit and not any closer than 500-foot intervals.
7. One per street frontage with a maximum of two (separated by a minimum of 500 feet).

Illumination Codes

1. Dir – Direct.
2. Fl – Fluorescence.
3. In – Indirect.
4. Int - Internal.
5. Ne – Neon.
6. Pr - Projection.

(Code 1998, § 10-15-5; Ord. of 12-13-2005; Ord. No. 008-2009, 10-13-2009; Ord. No. 003-2014, 7-8-2014; Ord. No. 2016-019, 8-9-2016)

**10-15-6 Rules, Regulations, And Requirements**

A. *Animated, flashing, intermittent signs*. Animated, flashing and intermittent signs shall not be permitted in any zone, except when deemed necessary by the city for public safety. These signs are different than electronic message signs, as defined in PCC 1-3-2.

B. *Construction standards*. All signs erected in the city shall comply with the current

standards of the National Electrical Code, the International Building Code, and all the provisions of this title.

C. *Illumination*. Signs may be illuminated as indicated in the table provided in PCC 10-15-5; and shall be subject to the conditions listed in PCC 10-15-8.

D. *Maintenance*. All signs shall be maintained in a neat and presentable condition. Those signs damaged by weather conditions or by accident shall be repaired within 30 days or shall be replaced or removed. The removal of signs shall be at owner's expense.

E. *Public property*. No sign or other device, banner, or marker shall be located on or in public property except signs for city-sponsored events, regulatory and/or information street signs with the exception of placement of the official American flag and only in park strips that are in the city right-of-way. Flag display shall be allowed on city park strips on designated state and federal holidays from sunrise to sunset and must follow flag etiquette as described on the defense.gov website.

F. *Unsafe signs*. Any sign or portion thereof declared unsafe by the building inspector, or other designated city employee/official, must be restored to a safe condition within 30 days of mailing or otherwise fiving notice of the unsafe condition or shall be removed within the same 30-day period.

G. *Holiday decorations and banners*. Holiday decorations and banners placed by the city are not subject to the requirements of this chapter, except that they are safe. Similar decorations and banners placed by residents on private property are not subject to the requirements of this chapter except for the consideration for safety and shall not constitute a nuisance, and they shall be entirely on private property.

H. *Traffic hazard*. No sign 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," "drive-in," "danger," or any other words, phrases, symbols or characters in such a manner as to interfere with, mislead or confuse traffic.

I. *Trip hazard*. To minimize trip hazards, all signs must be a minimum of 24 inches in height.

J. *Exempt*. The following are not considered signs for the purpose of this chapter:

1. Mail boxes;
2. Address names and numbers;
3. National and state flags (flag poles on residential properties shall be no taller than 35 feet in height).

K. *Closure or relocation of a business, institution, or nonprofit*

*business/organization*. Business signs must be removed within 30 days after a business, institution, or nonprofit business/organization no longer exists at that location.

(Code 1998, § 10-15-6; Ord. of 12-13-2005; Ord. No. 008-2009, 10-13-2009; Ord. No. 12-233; Ord. No. 003-2014, 7-8-2014; Ord. No. 2016-019, 8-9-2016; Ord. No. 009-2021)

## 10-15-7 Penalty, Confiscation Of Signs

A. *Penalty*. Any person who fails to abide by the provisions of this chapter shall be guilty of a Class C misdemeanor and subject to penalty as provided in PCC 1-4-1.

B. *Confiscation of signs*. The public works director, or designee, may confiscate any sign located on public property in violation of this chapter or any other city ordinance. Confiscated signs shall be stored at a location determined by the public works director, or designee, for a period of 30 days; during which time, the owner or person having charge, control, or benefit of the confiscated sign, may redeem the sign after payment of any applicable penalties. The city shall not be liable for damages incurred to signs as a result of their confiscation. Signs not redeemed within 30 days may be destroyed.

C. *Liable for damages*. In addition to civil penalties, sign owners and persons having charge, control or benefit of any sign erected in violation of this chapter shall be liable for any damages caused to public property, public facilities or public utilities by reason of placement, attachment and/or removal of such unlawful signs.

(Code 1998, § 10-15-7; Ord. of 12-13-2005; Ord. No. 008-2009, 10-13-2009; Ord. No. 003-2014, 7-8-2014; Ord. No. 2016-019, 8-9-2016)

## 10-15-8 Illumination

Illuminated signs shall be subject to the following conditions:

A. Any direct light used for the illumination of a sign shall be shielded so that the beams or rays of light will not shine directly onto surrounding areas.

B. Neither the direct nor the reflected light from any light sources shall create a traffic hazard or distraction to operators of motor vehicles on public thoroughfares.

C. Signs in residential and agricultural zones shall be nonilluminated, unless illumination is clearly required for safety purposes.

D. Signs in commercial zones may be illuminated, provided they do not shine directly into a residential zone.

E. Lights used for direct illuminated signs may extend from the sign a distance not to exceed five feet, provided such lights are shielded and are on private property.

F. Individual incandescent bulb illumination which is designed to be an integral part of a sign, marquee, canopy, architectural projection, or building facade embellishment shall be permitted as provided:

    1. Frosted, translucent or diffused bulb: 25 watt maximum per bulb;

    2. Clear, transparent or bare bulb: 7 1/2 watt maximum per bulb;

    3. Such light shall not blink, flash, move, scintillate, flicker, vary in intensity or color or use electrical pulsations, with the exception of those placed behind rigid, permanently affixed translucent panels and are approved by conditional use. Time-temperature-date signs incorporating the use of blinking lights shall also be permitted if a conditional use permit is granted.

(Code 1998, § 10-15-8; Ord. of 12-13-2005; Ord. No. 008-2009, 10-13-2009; Ord. No. 003-2014, 7-8-2014; Ord. No. 2016-019, 8-9-2016)

**10-15-9 Electronic Message Displays (EMD)**

Electronic message displays shall conform to the following:

A. EMD shall be allowed as part of a monument or freestanding sign in all commercial zones.

B. Permits shall be required for all EMD signs pursuant to PCC 10-15-2. Before a permit is issued, the applicant must first obtain a conditional use permit.

C. Off-premises advertising on an EMD is prohibited with the exception of public service announcements.

D. Operators of EMD are encouraged to provide opportunities for the placement of public service announcements on their message boards.

E. The minimum spacing between EMD signs shall be 100 feet.

F. Auto-dimming is required.

G. The minimum time for sign messages shall be three to five seconds.

H. A maximum of 50 percent of the EMD sign may be dedicated to electronic messaging.

I. EMD signs facing residential housing units shall not be placed such that the housing unit falls within an area formed by an arc projecting from the face of the sign at an angle of 15 degrees and extending a distance of 300 feet in the direction of the projection.

J. EMD monument signs are not to exceed six feet in height and the base shall not exceed two feet in height.

K. Prohibited transitions:

1. Flashing.
2. Travel.
3. Scroll.
4. Video.

L. Permitted transitions:

1. Dissolve.
2. Fade.
3. Frame.
4. Animation, six second maximum.

(Code 1998, § 10-15-9; Ord. of 12-13-2005; Ord. No. 008-2009, 10-13-2009; Ord. No. 003-2014, 7-8-2014; Ord. No. 2016-019, 8-9-2016)

## CHAPTER 10-16 FLOODPLAIN MANAGEMENT REGULATIONS

10-16-1 Intent And Purpose
10-16-2 Basis Of Floodplain Management Regulations
10-16-3 Definitions
10-16-4 Methods Of Reducing Flood Losses
10-16-5 Permit Required
10-16-6 Base Flood Elevation Data
10-16-7 General Duties And Responsibilities
10-16-8 Warning And Disclaimer Of Liability
10-16-9 Penalties For Noncompliance

### 10-16-1 Intent And Purpose

The National Flood Insurance Program (NFIP) was established with the passage of the National Flood Insurance Act of 1968.

A. The intent of this chapter is to make sure that the city's floodplain management regulations meet or exceed the minimum requirements of the NFIP and any additional state requirements.

B. The purpose of this chapter is to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in

specific area by provisions designed to:

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas lines, stormwater facilities, electric, telephone and sewer lines, streets and bridges located in floodplains;
6. Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize future flood blight areas; and
7. Ensure that potential buyers are notified that property is in a flood area.

(Code 1998, § 10-16-1; Ord. No. 002-2011, 4-26-2011; Ord. No. 019-2016, 8-9-2016)

**10-16-2 Basis Of Floodplain Management Regulations**

The basis of the city's floodplain management regulations is the flood hazard data provided to the city by FEMA. Flood hazard data will be provided in the form of a flood insurance rate map (FIRM) (hereafter referred to as the "flood map") and flood boundary-floodway maps (FBFM) and a flood insurance study (FIS) (hereafter referred to as the "flood study").

A. The areas of special flood hazard identified by FEMA in a scientific and engineering report entitled, "The Flood Insurance Study for Cache County, Utah and Incorporated Areas" dated May 24, 2011(which includes the City of Providence – Community Number 490226), with accompanying flood insurance rate maps (FIRM) and flood boundary-floodway maps (FBFM) and any subsequent revisions thereto are hereby adopted by reference and declared to be part of this chapter.
B. This chapter shall apply to all areas of special flood hazard within the jurisdiction of the city.

(Code 1998, § 10-16-2; Ord. No. 002-2011, 4-26-2011; Ord. No. 019-2016, 8-9-2016)

**10-16-3 Definitions**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a

different meaning:

*Variance* means a grant of relief by a community from the terms of a floodplain management regulation.

**10-16-4 Methods Of Reducing Flood Losses**

In order to decrease flood loss, this section includes methods and provisions for:

A. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion, flood heights or velocities;

B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

C. Control the alteration of natural floodplains, stream channels and natural protective barriers, which are involved in the accommodation of channel floodwaters;

D. Controlling filling, grading, dredging and other development which may affect flood damage; and

E. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

(Code 1998, § 10-16-4; Ord. No. 002-2011, 4-26-2011; Ord. No. 019-2016, 8-9-2016)

**10-16-5 Permit Required**

A building and/or development permit shall be required for all proposed construction and other developments including the placement of manufactured homes, within Zone A on the city's FHBM or FIRM.

A. The permit shall be reviewed to:

    1. Ensure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

    2. Determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a floodprone area, all new construction and substantial improvements shall:

        a. Be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of

buoyancy.

b. Be constructed with materials resistant to flood damage.

c. Be constructed by methods and practices that minimize flood damages.

d. Be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

3. Determine, in the case of subdivision proposals and other proposed new development (including manufactured home parks or subdivisions), whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a floodprone area, any such proposal shall be reviewed to ensure that:

    a. All such proposals are consistent with the need to minimize flood damage within the floodprone area;

    b. All public utilities and facilities, such as sewer, gas, electrical, stormwater and water systems are located and constructed to minimize or eliminate flood damage; and

    c. Adequate drainage is provided to reduce exposures to flood hazards.

4. Require within floodprone areas new and replacement water supply systems to be designed to minimized or eliminate infiltration of floodwaters into the system.

5. Require within floodprone areas:

    a. New and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters; and

    b. On-site waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.

B. The land use authority (made up of the community development director, city engineer, and public works director) as defined by PCC chapter 2-4 is hereby designated the floodplain manager to administer and implement the provisions of this chapter; ensure that the city's records officer maintains and holds open for public inspection a record of all records pertaining to the provisions of this chapter; review permit application to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from

flooding; and review, approve or deny all applications for development remits required by this chapter. Approval or denial of a permit shall be based on all of the provisions of this chapter and the following relevant factors:

1. The danger to life and property due to flooding or erosion damage;
2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
3. The danger that materials may be swept onto other lands to the injury of others;
4. The compatibility of the proposed use with existing and anticipated development;
5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical, stormwater and water systems;
7. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
8. The necessity to the facility of a waterfront location, where applicable;
9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
10. The relationship of the proposed use to the comprehensive plan for that area.

C. Appeal authority, as defined by PCC chapter 2-5.

1. The appeal authority shall hear and render judgment on requests for variances from the requirements of this chapter; and appeals from a requirement, decision, or determination by the floodplain manager.
2. The appeal authority shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain manager in the enforcement or administration of this chapter.
3. Any person or persons aggrieved by the decision of the appeal authority may appeal such decision in the courts of competent jurisdiction.
4. The floodplain manager shall maintain a record of all actions involving an appeal and shall report variances to FEMA and the state office of

emergency management upon issuing a variance.

5. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in subsection D.2 of this section have been fully considered. Variances may also be issued for new construction and substantial improvements to be erected on lots larger than one-half acre or more. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
6. Upon consideration of the factors noted above and the intent of this chapter, the appeal authority may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter.
7. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result, or the appeal authority finds that refusing the variance would result in the taking or damaging of private property for a public purpose without the payment of just compensation.
8. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
9. Prerequisites for granting variances, in addition to the requirements for variances listed elsewhere in this chapter.
    a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, or is necessary to avoid the taking or damaging of private property for a public purpose without the payment of just compensation.
    b. Variances shall only be issued upon:
        (1) Showing a good and sufficient cause.
        (2) Determination that failure to grant the variance would result in exceptional hardship to the applicant.
        (3) Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(4) Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

10. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:

    a. The criteria outlined in subsections C.1 through 9 of this section are met; and

    b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

D. Application for a permit shall be filed with the floodplain administrator on forms furnished by the city and may include, but not be limited to, plans drawn to scale showing the location, dimensions, and elevation of the proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

    1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures.

    2. Elevation to mean sea level to which any nonresidential structure shall be floodproofed.

    3. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the flood-proofing criteria in PCC 10-16-6.B.2.b.

    4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.

(Code 1998, § 10-16-5; Ord. No. 002-2011, 4-26-2011; Ord. No. 019-2016, 8-9-2016)

**10-16-6 Base Flood Elevation Data**

A. All new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or five acres, whichever is the lesser, shall include within such proposals base flood

elevation data.

B. Base flood elevation and floodway data available from federal, state, or other source, including data developed pursuant to subsection A of this section, shall be obtained, reviewed and reasonably utilized as criteria for requiring that new construction, substantial improvements or other development in Zone A on the city's FHBM or FIRM to meet the following standards:

    1. All new construction and substantial improvements of residential structures within Zones A1-30, AE zones, and AH zones on the city's FIRM shall be required to have the lowest floor (including basement) elevated to a minimum of one foot above the base flood level, unless the city is granted an exception by the administrator for the allowance of basements in accordance with the appropriate sections of 44 Code of Federal Regulations (CFR).

    2. All new construction and substantial improvements of nonresidential structures within Zones A1-30, AE, and AH zones on the city's FIRM shall be required to:

        a. Have the lowest floor (including basement) elevated to a minimum of one foot above the base flood level,

        b. Be designed, together with attendant utility and sanitary facilities, so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

    3. All new construction and substantial improvements that have fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalized hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

        a. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the flowing minimum requirement:

            (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

4. It shall be required that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the city's FIRM on sites:
    a. Outside of a manufactured home park or subdivision;
    b. In a new manufactured home park or subdivision;
    c. In an expansion to an existing manufactured home park or subdivision; or
    d. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.

5. Manufactured homes to be placed or substantially improved on sites in and existing manufactured home park or subdivision within Zones A1-30, AH, and AE on the city's FIRM that are not subject to subsection B.4 of this section shall be elevated so that either:
    a. The lowest floor of the manufactured home is at or above the base flood elevation; or
    b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

6. It shall be required that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the city's FIRM either:
    a. Be on the site for fewer than 180 consecutive days;
    b. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has not permanently attached additions); or
    c. Meet the permit requirements of PCC 10-16-4 and the elevation and anchoring requirements for manufactured homes in subsection B.d of this section.

7. A regulatory floodway based on the principle that the area chosen for the

regulatory floodway must be designed to carry the waters of the base flood, without increasing the water surface elevation of that flood.

8. Encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway shall be prohibited unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the city during the occurrence of the base flood discharge.

C. Where base flood elevation data are utilized within Zone A on the city's FHBM or FIRM:

1. All new and substantially improved structures shall provide the elevation (in relation to the mean sea level) of the lowest floor (including basement);
2. If the structure has been floodproofed in accordance with subsection B.2.b of this section, the elevation (in relation to the mean sea level) to witch the structure was floodproofed shall be provided;
3. Records of all such information shall be maintained by the floodplain manager or the floodplain manager's assigns.

(Code 1998, § 10-16-6; Ord. No. 002-2011, 4-26-2011; Ord. No. 019-2016, 8-9-2016)

**10-16-7 General Duties And Responsibilities**

In addition to all other requirements of this chapter, the city shall:

A. Notify, in riverine situations, adjacent communities and the state coordinating office (Utah National Floodplain Coordinator) prior to any alteration or relocation of a watercourse and submit copies of such notifications to FEMA.

B. Ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

C. Require that all manufactured homes to be placed within Zone A on the city's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

D. Ensure that the city's general plan is consistent with the floodplain management objectives.

E. Compliance is required. No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and any other applicable ordinance.

F. This chapter is not intended to repeal, abrogate or impair any existing easement, covenant or deed restriction. Where this chapter and any other ordinance, easement, covenant or deed restriction conflict, whichever imposes the most restrictive regulations shall prevail.

G. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the floodplain manager shall make the necessary interpretation.

H. In the interpretation and application of this section, all provisions shall be:

    1. Considered as minimum requirements;

    2. Liberally construed in favor of the city council; and

    3. Deemed neither to limit nor repeal any other powers granted under state statutes.

(Code 1998, § 10-16-7; Ord. No. 002-2011, 4-26-2011; Ord. No. 019-2016, 8-9-2016)

**10-16-8 Warning And Disclaimer Of Liability**

The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based upon scientific and engineering considerations. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas designated as special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, any officer, agent or employee thereof for any flood damage that results from reliance on this chapter or any administrative decision lawfully made hereunder.

(Code 1998, § 10-16-8; Ord. No. 002-2011, 4-26-2011; Ord. No. 019-2016, 8-9-2016)

**10-16-9 Penalties For Noncompliance**

Violations of the provisions of this chapter by failure to comply with its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a Class B misdemeanor. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

(Code 1998, § 10-16-9; Ord. No. 002-2011, 4-26-2011; Ord. No. 019-2016, 8-9-2016)

# TITLE 11 SUBDIVISION REGULATIONS

CHAPTER 11-1 SUBDIVISION REGULATIONS GENERAL PROVISIONS
CHAPTER 11-2 ADMINISTRATION AND ENFORCEMENT
CHAPTER 11-3 PLAT PROCEDURES AND REQUIREMENTS
CHAPTER 11-4 DESIGN STANDARDS
CHAPTER 11-5 PUBLIC IMPROVEMENTS
CHAPTER 11-6 CONDOMINIUM APPROVAL

**State law reference**—Subdivisions, U.C.A. 1953, § 10-9a-601 et seq.

## CHAPTER 11-1 SUBDIVISION REGULATIONS GENERAL PROVISIONS

11-1-1 Title
11-1-2 Purposes
11-1-3 (Reserved For Future Use)
11-1-4 Amendments; Changes

### 11-1-1 Title

This title shall be known as the "Subdivision Title of Providence City, County of Cache, State of Utah."

(Code 1998, § 11-1-1; Subd. Ord., 1-24-1990; Ord. No. 006-2013, 9-10-2013; Ord. No. 024-2016, 11-1-2016; Ord. No. 2017-007, 4-25-2017

### 11-1-2 Purposes

The purposes of this title are to promote an adequate and efficient street and road system, to prevent congestion on streets and promote traffic safety, to secure desirable public space, to ensure proper distribution of population, to provide for adequate utilities and public improvements, to provide for orderly growth, and to improve the health, safety and general welfare of the people.

(Code 1998, § 11-1-2; Subd. Ord., 1-24-1990; Ord. No. 006-2013, 9-10-2013; Ord. No. 024-2016, 11-1-2016; Ord. No. 2017-007, 4-25-2017)

### 11-1-3 (Reserved For Future Use)

### 11-1-4 Amendments; Changes

Changes and amendments shall be done in accordance with state law.

(Code 1998, § 11-1-4; Subd. Ord., 1-24-1990; Ord. No. 006-2013, 9-10-2013; Ord. No. 024-2016, 11-1-2016; Ord. No. 2017-007, 4-25-2017)

**State law reference**—Amendments to subdivision ordinances, U.C.A. 1953, § 10-9a-608.

## CHAPTER 11-2 ADMINISTRATION AND ENFORCEMENT

11-2-1 Established
11-2-2 Compliance Required
11-2-3 Permit Issuance
11-2-4 Fee Schedule
11-2-5 Inspections, Generally
11-2-6 Penalty
11-2-7 Administrative Provisions

### 11-2-1 Established

The city shall enforce the provisions of this title. Failure of such to pursue appropriate legal remedies shall not legalize any violation of such provisions. Reasonable legal fees incurred by the city in enforcement hereof may be assessed as an additional penalty for violation of this title.

(Code 1998, § 11-2-1; Subd. Ord., 1-24-1990; Ord. No. 010-2013, 9-10-2013)

### 11-2-2 Compliance Required

No person shall subdivide any tract or parcel of land located wholly or in part in the city, except as in compliance with the provisions of this title. No person shall purchase, sell or exchange any parcel of land which is any part of a subdivision or a proposed subdivision submitted to the planning commission, nor offer for recording in the office of the county recorder, any deed conveying such a parcel of land or any fee interest therein, unless such subdivision has been created pursuant to and in accordance with the provisions of this title.

(Code 1998, § 11-2-2; Subd. Ord., 1-24-1991; Ord. No. 010-2013, 9-10-2013)

### 11-2-3 Permit Issuance

From the time of the effective date of the ordinance from which this title is derived, the building inspector shall not grant a permit, nor shall any city office, department or agency grant any license or permit for the use of any land or the construction or alteration of any building or structure on a lot which is contained in a subdivision that was not approved prior to the effective date of the ordinance from which this chapter is derived, which would be in violation of any provisions of this title until a subdivision plat has been approved as herein required and subsequently recorded. Any license or permit issued in conflict with such provisions shall be void.

(Code 1998, § 11-2-3; Subd. Ord., 1-24-1990; Ord. No. 010-2013, 9-10-2013)

## 11-2-4 Fee Schedule

Any and all persons requesting approval on preliminary plats, final plats and construction drawings and specifications for the construction of improvements shall have first paid all fees required as set forth by the most recent prevailing fee schedule adopted by the city. The fee schedule shall include, but shall not be limited to, office checking, legal and field engineering fees to be payable to the city at the time of each of the above-named submittals or in one lump sum as approved by the city. In addition to the above, a retainer fee for the construction inspection based on the above-mentioned fee schedule shall be payable to the city prior to any construction of subdivision improvements. All costs of inspection, including any necessary testing, shall be borne by the developer, not the city. The fee schedule shall be held in the city office.

(Code 1998, § 11-2-4; Subd. Ord., 1-24-1991; Ord. No. 010-2013, 9-10-2013)

## 11-2-5 Inspections, Generally

Appropriate agencies, departments and officials of the city shall inspect, or cause to be inspected, all buildings, roads, fire hydrants and water supply and sewage disposal systems in the course of construction, installation or repair. Excavations for fire hydrants and water and sewer mains and laterals shall not be covered nor backfilled until such installations shall have been approved by the appropriate department, agency or officials. If any such installation is covered before being inspected and approved, it shall be uncovered after notice to uncover has been issued to the responsible person by the inspector. A minimum of one working day's notice shall be given for any inspection.

(Code 1998, § 11-2-5; Subd. Ord., 1-24-1990; Ord. No. 010-2013, 9-10-2013)

## 11-2-6 Penalty

Whoever shall violate any of the provisions of this title shall be guilty of a Class C misdemeanor and, upon conviction of any such violation, shall be subject to penalty as provided in PCC 1-4-1. Each violation of this title shall be considered a separate offense, and each day such violation is permitted to exist shall constitute a separate offense.

(Code 1998, § 11-2-6; Subd. Ord., 1-24-1990; Ord. No. 010-2013, 9-10-2013)

## 11-2-7 Administrative Provisions

A. *Appeals*. Appeals from decisions applying this chapter shall be considered land use appeals and be heard by the appeal authority provided for in PCC chapter 2-5 in a manner consistent with local ordinance and state law.

B. *Written agreements*. Written agreements may be deemed necessary by all parties involved in the review. It is to be whatever title and approval of

subdivision application to protect the interests of the parties and clarify the mutual understandings associated with that review and/or approval. Written agreements may be entered into by all parties concerned to cover concerns and issues not specifically addressed by this title or other codes, standards, or ordinances of the city. Written agreements shall be finalized and executed by all other parties before the mayor places signature on the final plat and the written agreements.

C. *Guidelines and checklists*. The city is hereby authorized and empowered to promulgate by way of resolution certain materials, such as guidelines and/or checklists relative to this title. These materials shall be provided to any interested person upon request and upon payment of a fee if required by the city. These materials shall be for instructional purposes only and represent an attempt to aid those seeking to comply with this title. In the event any conflict arises between such materials and this title or other regulations, resolutions or policies of the city, then said ordinances, resolutions, regulations, or policies shall be deemed controlling and all questions shall be resolved in their favor.

D. *Exceptions*. The city council may grant an exception to the requirements of this title after receiving the recommendations of the planning commission and the city executive staff, provided that approving such exception will not substantially impair the intent of this title.

    1. When considering, granting, or denying an exception to title, the city council is acting as a land use authority.

    2. The consideration of and action upon an application for an exception to this title is an administrative act and is not an ordinance or a code amendment. An administrative record shall be kept of the decision. The decision will be supported by appropriate findings of fact and conclusions of law whether the application is approved or denied.

    3. When approving a request for an exception to this title, the city council shall specifically identify conditions that exist that support a determination that complete compliance with the requirement of this Code is unnecessary to serve the public interest and the goals and objectives of this Code and the general plan.

    4. Approval of an exception shall not materially increase the burden on the municipality to maintain its infrastructure.

    5. In approving an exception, conditions may be imposed which will, as determined by the city council, better serve the public interest than the strict application of the provisions of this title.

    6. The applicant, a board or officer of the municipality, or any person adversely affected by a decision to approve or deny an exception may, using the procedure in PCC chapter 2-5, appeal the decision to the appeal authority by alleging that there is an error in any order, requirement, decision, or determination made by the city council, acting

as a land use authority, in the administration or interpretation of this Code. The appeal shall be a record review and the decision of the city council will be upheld if it is legal and supported by substantial evidence in the record.

E. *Floodways and floodplains*. Subdivision plats shall be designed and prepared to clearly provide that the construction of buildings is not allowed in a designated floodway with a return frequency more often than a 100-year flood. Where building construction is to be allowed in any portion of a designated floodway where the return frequency is between a 100-year and a maximum probability flood, the plat shall be designed and prepared to clearly provide that all usable floor space for an occupancy use is constructed above the designated maximum probable flood level.

(Code 1998, § 11-2-7; Ord. No. 010-2013, 9-10-2013; Ord. No. 2015-010, 3-14-2015)

## CHAPTER 11-3 PLAT PROCEDURES AND REQUIREMENTS

11-3-0 Dependent Subdivisions
11-3-1 Concept Plan
11-3-2 Preliminary Plat
11-3-3 Final Plat
11-3-4 (Reserved For Future Use)
11-3-5 (Reserved For Future Use)
11-3-6 All Provisions, Timelines, Expiration Dates, Etc.
11-3-7 Building Lots And Building Permits
11-3-8 Lot Consolidation/Lot Line Adjustment In A Recorded Subdivision

### 11-3-0 Dependent Subdivisions

A subdivision or phase that is dependent upon another subdivision and/or phase for access or public works improvements shall not receive approval, conditional or otherwise, for the final plat until the final plat and construction documents for the independent subdivision or phase are approved, substantial completion inspection performed, and the items listed on the substantial completion inspection punch list are competed. Changes will place the dependent subdivision or phase on hold until all modifications to the independent subdivision are approved.

A. *Exception*. If the land use authority for subdivisions determines for good cause that any phase of plan/plat approval for the dependent subdivision would be inadequate to protect the public health, safety, and welfare, the dependent subdivision shall not receive approval, conditional or otherwise, for any phase of plan/plat until the final plat and construction documents for the independent subdivision or phase are approved, substantial completion inspection performed, and the items listed on the substantial completion inspection punch list are competed. Changes will place the dependent subdivision or phase on hold until

all modifications to the independent subdivision are approved.

(Code 1998, § 11-3-0; Ord. No. 002-00, 1-25-2000; Ord. No. 009-2004, 3-9-2004; Ord. No. 014-2007, 8-14-2007; Ord. No. 018-2007, 9-25-2007; Ord. No. 007-2009, 10-13-2009; Ord. No. 012-2010, 11-9-2010; Ord. No. 008-2012, 6-12-2012; Ord. No. 011-2013, 9-10-2013; Ord. No. 006-2014, 9-23-2014; Ord. No. 2015-10, 3-24-2015; Ord. No. 019-2016, 8-9-2016; Ord. No. 2017-001, 1-10-2017; Ord. No. 2018-013, 10-23-2018)

## 11-3-1 Concept Plan

A concept plan shall be submitted to the city executive staff (which may include the city manager, community development director, public works director, city engineer and others as designated by the city manager) for review and compliance with the city general plan, and PCC titles 10 and 11.

A. *Complete application*. The city has 30 days to review an application for completeness. At that time the city will provide a written notice of acceptance or denial to the developer and/or their agent. If the application is denied; professional fees for review may be billed.

    1. A complete application must include information indicating the total acreage (total acreage includes all property within the parcel and all phases whether current or future) of the proposed development.

    2. In addition to lot and street layout, a concept plan shall show all nondevelopable sensitive areas and all potentially developable sensitive areas within the boundaries of the development and within 100 feet of the development.

    3. The following roads do not require curb, gutter, and sidewalk: Grandview Drive and Foothill Drive in the Grand View Hills Subdivision; Canyon Road east of 400 East. 400 East from Canyon Road south to the city's south boundary line does not require curb, gutter, and sidewalk on the west side; curb, gutter, and sidewalk are required on the east side.

    4. See the Downtown Street Cross Sections C-1A in the city corporation department of public works standard construction drawings for profiles on all other streets.

B. *Expiration*.

    1. *Concept plan application*. A concept plan application shall expire if it is determined by the city's land use authority that the developer and/or its agent did not proceed with reasonable diligence to meet any items/conditions prescribed in city ordinances and/or listed on the city executive staff review comments;

    2. *Approved concept plan*. An approved concept plan shall expire if a

complete preliminary plat application has not been submitted to the city by the developer and/or its agent within one year after city executive staff approves the concept plan;

3. An expired plan is considered withdrawn and any vested right to proceed obtained by the developer shall terminate.

(Code 1998, § 11-3-1; Ord. No. 009-2004, 3-9-2004; Ord. No. 014-2007, 8-14-2007; Ord. No. 018-2007, 9-25-2007; Ord. No. 007-2009, 10-13-2009; Ord. No. 012-2010, 11-9-2010; Ord. No. 008-2012, 6-12-2012; Ord. No. 011-2013, 9-10-2013; Ord. No. 006-2014, 9-23-2014; Ord. No. 2015-10, 3-24-2015; Ord. No. 019-2016, 8-9-2016; Ord. No. 2017-001, 1-10-2017; Ord. No. 2018-013, 10-23-2018)

**11-3-2 Preliminary Plat**

A preliminary plat application will not be accepted by the city without the city's written approval of the concept plan. The following procedure shall be followed in submittal and review of the preliminary plat:

A. *Preparation*. The preliminary plat shall be prepared in accordance with all requirements of the city and shall include all proposed phases.

B. *Contents*.

1. *Drawing requirements*. The title block of the preliminary plat shall include the following:

    a. The proposed name of the development.

    b. The section, township and range of the development.

    c. The names, addresses, and contact information of the owners, developer, if other than the owners, and surveyors and/or designers of the development.

    d. Scale of drawing and north arrow.

2. *Existing conditions*. The preliminary plat shall also show:

    a. The legal description basis of bearing, and total acreage (total acreage includes all property within the parcel and all phases whether current or future) of the proposed development, certified by a licensed land surveyor.

    b. Location, street number and name of existing streets within 100 feet of the development and of all previously platted streets or other public ways, railroad and utilities rights-of-way, parks and other public open spaces, permanent buildings and structures, and corporate lines within and adjacent to the tract.

c. The location of all wells, proposed, active and abandoned, springs, and all reservoirs within the tract and to a distance of at least 100 feet beyond the development boundaries.

d. Existing sewers, water mains, culverts or other underground facilities within the tract and to a distance of at least 100 feet beyond the tract boundaries, indicating pipe size, grades, manholes and accurate location.

e. Existing ditches, canals, natural drainage channels, open waterways, and proposed alignments or realignments within the tract and to a distance of at least 100 feet beyond the tract boundaries, and a letter from the affected users indicating the plans are acceptable, must be submitted to the city.

f. Accurate boundary lines certified by a licensed land surveyor and ownership of adjacent parcels of land.

g. By means of an overlay method or directly on the plat, vertical contour intervals of not more than two feet, or one foot on predominantly level land.

h. A vicinity map shall show how the development is situated in its surrounding neighborhoods extending a minimum of two blocks or more outward from the boundaries of the development. The vicinity map shall include all major, collector, standard and feeder streets within the area, both existing streets and those proposed on the master plan.

3. *Proposed conditions*. The preliminary plat shall also show:

a. The layout of streets showing locations, widths and other dimensions of proposed streets (designated by actual or proposed names and numbers), crosswalks, alleys and easements.

b. The locations for culinary water improvements, wastewater improvements, storm drainage and street lights for all lots proposed within the development.

c. The layout, numbers, hazard setback, and typical dimensions of lots and square footage.

d. Parcels of land intended to be dedicated or temporarily reserved for public use or set aside for use of property owners in the development.

e. Written statement by the design engineer verifying that all lots have an adequate buildable envelope with regards to hazardous slope, building, water, zoning setbacks, etc.

f. Easements for water, sewer, drainage, utility lines and other utilities.

g. Typical street cross sections and preliminary street grades if required.

h. Copies of any agreements with adjacent property owners relevant to the proposed development.

i. Location, function, ownership and manner of maintenance of common open space not otherwise reserved or dedicated for public use.

j. A professionally prepared plat having been prepared on a minimum 20-inch by 30-inch or maximum 24-inch by 36-inch approved, reproducible drafting medium.

k. A signature block along the right-hand margin of the preliminary plat providing for the following certifications or approvals:

(1) Prior to city review, an affidavit or certificate of clear title to the effect that the applicant is the owner of, or that the applicant is authorized by the owner in writing to make application for, the land proposed to be subdivided. The affidavit or certificate shall state clearly in which status, a copy of said written authorization from the owner shall be submitted with the preliminary plat. A title report shall also be submitted which indicates in whom the fee simple title to such property is vested and any liens or encumbrances thereon. A statement from the property owner disclosing any options or unrecorded contacts/agreements associated with the property.

4. *Phasing*. The development shall be phased to provide public infrastructure, facilities, and services in a timely and orderly manner and provide the city the ability to protect and promote public health, safety, and welfare.

a. When developing a large tract of land, developers may choose to construct the subdivision in phases rather than develop the entire property at once. However, in no case should a phase contain less than six lots; and no less than two acres of land area.

b. Phases shall be planned to ensure the efficient and consecutive construction of adjacent future phases (those phases immediately next to the subject phase, sharing a common boundary line), and to ensure that phased development does not allow for leapfrog development.

c. Each proposed phase shall provide no less than a proportionate share of required open space, recreation facilities, and/or dedications for public use concurrent with development. In cases where construction of a proportionate fair share improvement is not feasible or would result in incomplete facilities which do not mitigate the impacts of the phase, construction of the entire improvement may be required.

d. All phases shall be required to be stand-alone. No proposed prior phase shall be dependent on the completion of subsequent phases to be consistent with any required approvals and/or conditions, including, but not limited to, the looping of roads and utilities; the provision of fire flow; and the mitigation of transportation, recreation and/or public services impacts. Landscaping and parking improvement shall be provided within each phase as required.

e. Infrastructure improvements which are required to serve the entire project may be constructed within a nonadjacent phase.

f. Phasing plans shall include the following information:

    (1) Illustrative maps for each proposed phase which clearly mark in heavy lines the boundaries of the subject phase, label the phase alphabetically (to avoid confusion with lot numbers) and depict roads, lots, infrastructure, easements, dedications and open space which are included within the subject phase. The plan shall also illustrate those proposed improvements which mitigate impacts associated with the unbuilt portions of the project which are not located within the boundaries of the subject phase. Previously established phases, including roads, lots, infrastructure, easement, dedications, and open space, should be shown on the map shaded or gray-scaled. All phasing maps shall be drawn at the same scale.

    (2) A narrative description or table which describes each phase and its associated improvements, in addition, the narrative or table shall demonstrate that each phase would comprise a stand-alone development which, should no subsequent phases be constructed, would meet or exceed the standards of this title and all other conditions of approval. The narrative should also describe the proposed timeline for completion of the entire project and any proposals to bond for required unbuilt or yet-to-be-constructed improvements.

g. Choosing to phase the subdivision does not relieve developer of the requirement to present the entire subdivision in its phases, for final approval by the planning commission as required by PCC 11-3-3.

h. Remainder parcel. In no case should a remainder parcel contain less area than the area required for six lots.

C. *Submittal*. Two copies (20-inch by 30-inch minimum, 24-inch by 36-inch maximum size) and one 11-inch by 17-inch copy of the preliminary plat shall be submitted to the city for review a minimum of seven days prior to the initial city review. The city will complete the first review within 30 days. Each subsequent review is subject to an additional 30-day review period. If all required information is not included, city has the right to refuse the package.

D. *Staff review*. Upon review, the city executive staff will provide written comments, conclusions and recommendations to the land use authority.

E. *Approval*. No preliminary plat shall be approved by the planning commission, the city council, or any other designated land use authority unless it complies with or can be shown that a final plat will be likely to comply with all the provisions set forth in the city ordinances. No preliminary or final plat shall be approved if a commitment-of-service letter has not been issued for the plat pursuant to PCC 8-1-21.

1. A preliminary plat is not considered approved until all conditions have been satisfied and the plat has been signed by the city engineer, land use authority, and the developer.

F. *Complete application*. The city has 30 days to review an application for completeness. At that time the city will provide a written notice of acceptance or denial to the developer and/or the developer's agent. If the application is denied, the application fee may be refunded; professional fees for review may be billed. To be considered complete, an application must contain the following:

1. A completed city application form;
2. Payment of the application fee;
3. The proposed preliminary plat and all required copies;
4. A title report shall also be submitted which indicates in whom the fee simple title to such property is vested and any liens or encumbrances thereon;
5. A copy of the city's written approval of the concept plan.

G. *Expiration*.

1. *Preliminary plat application*. A preliminary plat application shall expire if it is determined by the city's land use authority that the developer and/or the developer's agent did not proceed with reasonable diligence to meet any items/conditions identified in city ordinances and/or in city executive staff review comments.
2. *Approved preliminary plat*. An approved preliminary plat shall expire if a complete final plat application has not been submitted to the city by the developer and/or the developer's agent within one year after approval of the preliminary plat.
3. An expired plat is considered withdrawn and any vested right to proceed obtained by the developer shall terminate.

(Code 1998, § 11-3-2; Subd. Ord., 1-24-1990; Ord. of 1-9-1996; Ord. No. 009-2004, 3-9-2004; Ord. No. 014-2007, 8-14-2007; Ord. No. 018-2007, 9-25-2007; Ord. No. 007-2009, 10-13-2009; Ord. No. 012-2010, 11-9-2010; Ord. No. 008-2012, 6-12-2012; Ord. No. 011-2013, 9-10-2013; Ord. No. 006-2014, 9-23-2014; Ord. No. 2015-10, 3-24-2015; Ord. No. 019-2016, 8-9-2016; Ord. No. 2017-001, 1-10-2017; Ord. No. 2018-013, 10-23-2018)

## 11-3-3 Final Plat

A final plat application cannot be submitted to the city prior to approval of the preliminary plat. The following information and a complete set of construction drawings, including the stormwater pollution prevention plan and the engineer's cost estimates (must show minimum improvement costs separately) shall be submitted for review:

A. *Preparation*. The final plat shall be prepared in accordance with all the requirements of the city. The final plat shall be prepared by a land surveyor, licensed in the state. The top of the plat shall be either north or east, whichever accommodates the drawing best.

B. *Description and delineation*.

1. The final plat shall show:

    a. The name of the development as approved by the land use authority.

    b. Accurate angular and linear dimensions for all lines, angles and curves used to describe boundaries, streets, alleys, easements, areas to be reserved for public use and other important features.

    c. An identification system for all lots, blocks and names of streets. Lot lines shall show dimensions in feet and hundredths.

    d. The street address for each lot. Each street address shall be assigned by the city. The north and west sides of the streets shall

be numbered odd, and the south and east shall be numbered even.

e. True angles and distances to the nearest official US, state, county, or city monuments which shall be accurately described in the plat and shown by the appropriate symbols. All boundary, lot and other geometries (bearings, distances, curve data, etc.) on the final plat posed to an accuracy of not less than one part in 5,000.

f. Radii, internal angles, points or curvatures, tangent bearings and the length of all arcs.

g. Survey markers shall be set at all lot corners and shall be shown or noted on the plat.

h. The dedication to the city of all improvements which shall include, but shall not be limited to, streets, stormwater systems, water works, sewer works, etc., included in the proposed development.

i. Accurate outlines and dimensions of any areas to be dedicated or reserved for public use, with the purposes indicated thereon, and of any area to be reserved by deed or covenant for common use of all property owners.

j. A statement that all expenses involving the necessary improvements or extensions for a culinary water system, sanitary sewer system, gas service, electrical service, telephone service, cable television service, grading and landscaping, storm drainage systems, curbs and gutters, fire hydrants, pavement, sidewalks, signage, street lighting and other improvements shall be paid for by the developer.

k. All hazard setbacks.

l. A statement verifying that all lots have an adequate buildable envelope with regards to hazardous slope, zoning setbacks, etc.

m. A statement that the city will not issue any building permit for any lot until minimum improvements, as specified in PCC 11-5-2 are complete.

n. Boundary descriptions of the development.

o. Standard forms for the following:

    (1) A registered land surveyor's certificate of survey as applicable under state law.

    (2) The owner's signature of dedication.

    (3) A notary public's acknowledgment.

(4) The city engineer's certificate of approval.

(5) The city's authority for the culinary water and the sanitary sewer system's signature

(6) The county board of health's certificate of approval if a septic tank system is used for sewage disposal.

(7) The land use authority signature of approval.

(8) The city's signature of approval by the mayor.

(9) The city attorney's certificate of approval.

(10) A signed statement from each of the utility companies involved stating that they have reviewed the plat, that they approve the plat as it relates to their particular company, that they are in agreement with placing all of their utilities underground within the right-of-way as shown on the plans and are willing to provide the needed service for the development. Also included, if available, in said statements descriptions of any restrictions that will be imposed by the utility companies, any fees that will be assessed by the utility companies to install the utilities and any time tables that the utility companies might use to install their respective utilities.

(11) The county recorder's stamp of approval according to requirements prior to final plat approval.

2. The final plat shall also:

a. Be drawn to a scale of not less than one inch equaling 100 feet and shall indicate the base heading of true north.

b. Be prepared on a minimum 20-inch by 30-inch maximum 24-inch by 36-inch paper.

c. Show a workmanlike execution in every detail. A poorly drawn or illegible plat is sufficient cause for rejection.

d. Final approved plat for recording shall be prepared on Mylar.

C. *Development agreement*. The developer shall enter into and sign an agreement with the city, which shall indicate a timetable for completion of the final improvements as listed in the preliminary and final plat. This agreement will be submitted to the city council for approval.

D. *Submittal*. Two copies (20-inch by 30-inch minimum, 24-inch by 36-inch

maximum) and one 11-inch by 17-inch copy of the final plat and construction drawings shall be submitted to the city for review a minimum of seven days prior to the initial city review. The city will complete the first review within 30 days. Each subsequent review is subject to an additional 30-day review period. If all required information is not included, city has the right to refuse the package.

E. *Staff review*. Upon review, the city executive staff shall provide written comments, conclusions, and recommendations to the land use authority.

F. *Approval*. The final plat shall be approved by the land use authority. The construction drawings shall be approved by the city staff. A development agreement that implements an existing land use regulation as an administrative act does not require city council approval. A development agreement that implements and/or amends a land use regulation shall be approved by the city council. Prior to submitting the final plat for recording, the final plat shall be signed by the developer and utility companies, or a letter shall be submitted with the final plat from the utility companies. The development agreement shall be signed by the developer. The city does not consider the final plat to be approved until the construction drawings are signed, the development agreement has been signed and all signatures are on the final plat. At this point, the developer shall submit an electronic copy of the approved final plat and approved construction drawings.

G. *Expiration*.

1. *Final plat application*. A final plat application shall expire if it is determined by the city's land use authority that the developer and/or the developer's agent did not proceed with reasonable diligence to meet any items/conditions identified in city ordinances and/or in city executive staff review comments.

2. *Approved final plat*. An approved final plat shall be void if it is not recorded within one year of approval of the development agreement by the city council.

3. *Approved final plat with phasing*. If the final plats are recorded in phases, subsequent final plats must be recorded within five years of the recording of the previous plat. If a development fails to meet this requirement, new concept plans and preliminary plats must be submitted and approved before subsequent final plats can be submitted or approved.

4. An expired plat is considered withdrawn and any vested right to proceed obtained by the developer shall terminate.

(Code 1998, § 11-3-3; Subd. Ord., 1-24-1990; Ord. of 4-9-1996; Ord. No. 009-2004, 3-9-2004; Ord. No. 014-2007, 8-14-2007; Ord. No. 018-2007, 9-25-2007; Ord. No. 007-2009, 10-13-2009; Ord. No. 012-2010, 11-9-2010; Ord. No. 008-2012, 6-12-2012; Ord. No. 011-

2013, 9-10-2013; Ord. No. 006-2014, 9-23-2014; Ord. No. 2015-10, 3-24-2015; Ord. No. 019-2016, 8-9-2016; Ord. No. 2017-001, 1-10-2017; Ord. No. 2018-013, 10-23-2018)

**11-3-4 (Reserved For Future Use)**

**11-3-5 (Reserved For Future Use)**

**11-3-6 All Provisions, Timelines, Expiration Dates, Etc.**

All provisions, timelines, expiration dates, etc., listed in this chapter apply to the developer, their successors, or assigns.

(Code 1998, § 11-3-6; Ord. No. 009-2004, 3-9-2004; Ord. No. 014-2007, 8-14-2007; Ord. No. 018-2007, 9-25-2007; Ord. No. 007-2009, 10-13-2009; Ord. No. 012-2010, 11-9-2010; Ord. No. 008-2012, 6-12-2012; Ord. No. 011-2013, 9-10-2013; Ord. No. 006-2014, 9-23-2014; Ord. No. 2015-10, 3-24-2015; Ord. No. 019-2016, 8-9-2016; Ord. No. 2017-001, 1-10-2017; Ord. No. 2018-013, 10-23-2018)

**11-3-7 Building Lots And Building Permits**

Building lots in the approved development may be sold after the final plat has been recorded. The lots, however, shall have recorded restrictions placed upon them stating that the city will not issue any building permit for any lot until minimum improvements, as specified in PCC 11-5-2 are complete.

(Code 1998, § 11-3-7; Ord. No. 97 OM016, 8-12-1997; Ord. No. 009-2004, 3-9-2004; Ord. No. 014-2007, 8-14-2007; Ord. No. 018-2007, 9-25-2007; Ord. No. 007-2009, 10-13-2009; Ord. No. 012-2010, 11-9-2010; Ord. No. 008-2012, 6-12-2012; Ord. No. 011-2013, 9-10-2013; Ord. No. 006-2014, 9-23-2014; Ord. No. 2015-10, 3-24-2015; Ord. No. 019-2016, 8-9-2016; Ord. No. 2017-001, 1-10-2017; Ord. No. 2018-013, 10-23-2018)

**11-3-8 Lot Consolidation/Lot Line Adjustment In A Recorded Subdivision**

Lot consolidation/lot line adjustment in a recorded subdivision plat is considered a minor revision of the subdivision.

A. A petition to have a plat amended shall be submitted to the city executive staff for review and compliance with the city general plan, and PCC titles 10 and 11.

    1. *Petition requirements*. In addition to the petition requirements listed in the state code, a petition for lot consolidation must contain a concept plan, drawn to a scale of not less than one inch equaling 100 feet, showing all existing structures and their distance from the property lines on all lots involved in the consolidation.

B. The planning commission is the land use authority for altering or amending a

subdivision plat.

C. The planning commission, if required by state code, shall hold a public hearing within 45 days after the day on which the petition is filed.

D. *General requirements*.

1. All conditions applicable to the original subdivision remain in full force and effect.
2. Any dedicated street, sidewalk, drainage feature, utility easement, or other characteristic found in the original subdivision remains in full force.

E. *Geometric requirements*.

1. When combining two lots which share a common boundary, the common boundary, in plan view must be a minimum of 15 feet.
2. When combining two or more lots which do not share a common boundary, such a boundary must be created for the consolidated lot by the use of an abutting connector parcel.
    a. The connector parcel must be a minimum width of 15 feet in plan view at its narrowest point.

F. *Final plat for recording*.

1. Upon approval of the planning commission, the petitioner shall prepare an amended final plat for recording. The final plat shall include standard forms for the following:
    a. A registered land surveyor's certificate of survey as applicable under state law.
    b. The owner's signature of dedication.
    c. A notary public's acknowledgment.
    d. The city engineer's certificate of approval.
    e. The city's authority for the culinary water and the sanitary sewer system's signature.
    f. The county board of health's certificate of approval if a septic tank system is used for sewage disposal.
    g. The land use authority signature of approval.
    h. The city's signature of approval by the mayor.
    i. The city attorney's certificate of approval.
    j. A signed statement from each of the utility companies involved

stating that they have reviewed the plat, that they approve the plat as it relates to their particular company.

k. The county recorder's stamp of approval according to requirements prior to final plat approval.

2. *Expiration*. An approved amended final plat shall be void if it is not recorded within one year from the date the planning commission granted approval.

(Code 1998, § 11-3-8; Ord. No. 009-2004, 3-9-2004; Ord. No. 014-2007, 8-14-2007; Ord. No. 018-2007, 9-25-2007; Ord. No. 007-2009, 10-13-2009; Ord. No. 012-2010, 11-9-2010; Ord. No. 008-2012, 6-12-2012; Ord. No. 011-2013, 9-10-2013; Ord. No. 006-2014, 9-23-2014; Ord. No. 2015-10, 3-24-2015; Ord. No. 019-2016, 8-9-2016; Ord. No. 2017-001, 1-10-2017; Ord. No. 2018-013, 10-23-2018)

## CHAPTER 11-4 DESIGN STANDARDS


11-4-1 Standards And Specifications
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### 11-4-1 Standards And Specifications

Standards for design, construction specifications, and inspections of street improvements, curbs, gutters, sidewalks, stormwater drainage and flood control facilities shall be provided by the city engineer; standards for water distribution and sewage disposal facilities by the board of health; and similar standards for fire protections by the fire department. All developers shall comply with the standards established by such departments and agencies of the city, county, and state, provided that such standards shall be approved by the city council. Construction specifications approved and as may be amended from time to time by action of the city council are hereby adopted by reference as if fully set forth herein, three copies of which are on file in the city recorder's office for public inspection. These standards and specifications, in addition to the general standards set forth in this title, shall be used by all developers and/or development.

(Code 1998, § 11-4-1; Subd. Ord., 1-24-1990; Ord. of 11-12-1996; Ord. No. 98-OM013, 6-

8-1998; Ord. No. 009-2009, 10-27-2009; Ord. No. 012-2013, 10-8-2013; Ord. No. 024-2016, 11-1-2016; Ord. No. 2017-008, 4-25-2017; Ord. No. 2018-002, 4-10-2018)

## 11-4-2 Blocks, Lots And Open Spaces

The design of the preliminary and final plats of the development in relation to streets, blocks, lots, open spaces, and other design factors shall be in harmony with the current general plan and current master plans; and shall comply with PCC title 10 and the Providence City Department of Public Works Standards and Specifications Manual as approved by the city council; and other applicable industry standards such as the American Public Works Association, and the American Water Works Association, etc., if authorized by the city engineer and public works director. All improvements shall be designed by a professional engineer licensed in the state.

A. *Length*. Streets shall not exceed two blocks, which is typically 1,320 feet, in length between intersections with functioning cross streets (not a cul-de-sac).

B. *Width*. Blocks shall be wide enough to adequately accommodate two tiers of lots.

C. *Walkways/trails*. Dedicated walkways/trails may be required. Such trails shall be a minimum of eight feet in width but may be required to be wider where determined necessary by the city. The developer shall surface the full width of the walkway with an approved surface.

D. *Multifamily housing*. Multifamily dwellings or other types of cluster housing will be considered at the option of the city. If approved, adequate space of off-street parking shall be required.

E. *Arrangement; design*. The lot arrangement and design shall be such that lots will provide satisfactory and desirable sites for buildings, be properly related to topography, to the character of the surrounding development and to existing requirements.

F. *Adjoin street*. Each lot shall abut on a street or lane shown on the development plat or on a publicly dedicated street. Double frontage lots shall be prohibited, except where unusual conditions make other designs undesirable.

G. *Open space*. A portion of land or development site that is permanently set aside for public or private use and will not be developed. Open space may be used a community open space or preserved as green space. Green space is open space maintained in a natural, undisturbed, or revegetated condition.

(Code 1998, § 11-4-2; Ord. of 11-12-1996; Ord. No. 98-OM013, 6-8-1998; Ord. No. 009-2009, 10-27-2009; Ord. No. 012-2013, 10-8-2013; Ord. No. 024-2016, 11-1-2016; Ord. No. 2017-008, 4-25-2017; Ord. No. 2018-002, 4-10-2018)

## 11-4-3 Streets And Street Improvements

A. *Arrangement*. The arrangement of streets in new development shall make provision for the continuation of existing streets in adjoining areas and shall provide access to unsubdivided adjoining areas insofar as such continuation or access shall be deemed necessary by the city. If a future street or the expansion of an existing street is shown in the city's general plan or master transportation plan as involving some of the land involved with a proposed new development, then the proposed development plan shall make appropriate provisions for the construction of the new street or expansion of that existing street, as the land use authority reviewing the proposed new development shall determine.

B. *Connection*. New streets must connect with existing public streets.

C. *Width; costs*.

1. The general plan and/or transportation corridor master plan designates the location of the various street types.
2. The minimum right-of-way width for residential streets shall be 66 feet.
    a. Generally, residential streets shall have a minimum asphalt width of 30 feet.
    b. When designated on the general plan and/or transportation corridor master plan, residential streets shall have a minimum asphalt width of 37 feet.
3. The minimum right-of-way width for a commercial street shall be 80 feet, with a minimum asphalt width of 49 feet.
4. The minimum right-of-way width for a major street shall be 99 feet, with a minimum asphalt width of 66 feet.
5. Costs of new roads and repairs to existing roads caused by development.
    a. The costs of new residential streets and repairs to existing roads caused by development shall be borne by the developer.
    b. Where a major street or a commercial street is required, the cost of any paved section over and above 39 feet of width may be shared by the city.
    c. The city's participation shall be determined by the cost estimates reviewed by the city engineer and approved by the city council. The approve estimates shall be part of the development agreement attached to the final plat.

D. *Surfacing*. All streets shall be improved as shown in the current city department of public works standards and specifications manual.

E. *Grades*.

1. Grades of streets shall not be in excess of 15 percent for a maximum of 150 feet measured along the center line of the street, nor in excess of eight percent on sustained grades (a length of street that exceeds 150 feet), unless otherwise approved by the city. Grades of roads shall be a minimum of 0.5 percent.
2. Streets shall be designed and constructed to a grade of less than four percent for a distance of at least 100 feet approaching all intersections. If the intersection includes a pedestrian crossing, the pedestrian crossing must meet the requirements of the Americans with Disabilities Act (ADA).
3. All changes in street grades shall be connected by vertical curves of a minimum length equivalent to 15 times the algebraic difference in the rate of grade for major streets and commercial streets; and one-half of this minimum for all residential streets.
4. Grades through cul-de-sacs (permanent or temporary) shall not exceed four percent.

F. *Curvature on center line*. Minimum radii of curvature on center line shall be as follows: major and commercial streets, 500 feet; residential streets, 300 feet; unless otherwise approved by the city.

G. *Partial streets*. When a partial street is approved, it will require sufficient right-of-way to construct improvements as shown on the partial street cross section in the current city department of public works standards and specifications manual.

H. *Intersection angles; curb radii*. In general, streets should intersect at right angles, residential streets should approach the major or commercial streets at an angle of not less than 85 degrees and not more than 95 degrees, and curb corners should have a radius of not less than 20 feet.

I. *Curbs and gutters*.

1. All streets within the development shall be improved as shown in the current city department of public works standards and specifications manual.
2. Minimum grades for curb and gutters and streets shall not be less than 0.5 percent, and from crown of road to the lip of the curb shall be a minimum of two percent.

J. *Swales*. Swales may be designed to replace curb and gutter. Designs shall include, but are not limited to, providing methods and planting materials that will be used to ensure the integrity of the swale is maintained in a manner that will prevent erosion of soils and infiltration of silt and other materials along the swale area and into storm retention systems, streets, and other properties. The developer is responsible to maintain the swales for a warranty period of two

years.

K. *Sidewalks*. Sidewalks may be required on both sides of all public streets. Sidewalks placed on both sides of public streets shall be concrete and five feet wide minimum and four inches thick minimum. All sidewalks that cross residential driveways shall be six inches thick minimum. All sidewalks that cross commercial driveways shall be eight inches thick minimum. Sidewalks at all intersections of public streets shall conform to adopted American Disabilities Act standards.

L. *Existing and proposed streets*. The developer shall improve existing and proposed streets in all development, except on the rear of lots that back on streets where access is not permitted. Timetable of completion and the security performance of all improvements will be listed in the development agreement.

M. *Damage*. In the event existing sidewalks or curbs and gutters are damaged at any time, the damaging party shall repair or replace the damaged items as per PCC 7-3-1.

N. *Nonconnecting streets; turnarounds*. At all temporary ends to streets on nonconnecting streets, provisions shall be provided by the developer for a turnaround for snow plows, garbage trucks, and other service vehicles. Turnarounds must be paved with hot mix asphalt (see exception in subsection N.4 of this section). See the current city department of public works standards and specifications manual.

    1. Turnarounds at temporary ends to streets may be a cul-de-sac or a "T" configuration; and must meet fire department requirements. A temporary end to a street that is less than 150 feet may be used as a "T" turnaround.

    2. The city, at its sole discretion, may restrict driveway location for lots adjacent to streets with temporary ends.

    3. The city, at its sole discretion, may require an easement for snow removal at a temporary end to a street.

    4. *Exception to hot mix asphalt*. If the grade in a temporary turnaround is two percent or less, a hard surface other than hot mix asphalt may be accepted. However, the grade of the temporary turnaround must be designed with safety in mind. The city reserves the right to reject a temporary turnaround at a grade of two percent or less, if the city engineer feels safety may be compromised.

O. *Park strips*. Park strips shall be at least seven feet in width.

P. *Bicycle lanes*. On major, commercial, and residential streets, bicycle lanes should be added as specified in the general plan and/or transportation corridor master plan, and other streets where possible. If necessary and approved by the city council, bicycle lanes may be added in lieu of a sidewalk and/or park strip on

one side of the street to help accommodate alternative modes of transportation.

Q. *Residential Access to a major, commercial, or specified residential street*. Access to a major, commercial, or specified residential street, as shown on the general plan and/or transportation corridor master plan, from a residential unit (i.e., driveway cutout) shall only be allowed where no other option or solution exists.

R. *Parking*. Parking on major, commercial, or specified residential street, as shown on the general plan and/or transportation corridor master plan, should be limited to areas designated by the city, so as not to impede the flow of traffic.

S. *Seal coat on asphalt surfaces*. Provisions for sealing all asphalt surfaces within the subdivision shall be determined during the subdivision development plan approval process. Developers may seal asphalt using one of the following methods:

1. *Ancillary agreement*. The developer may enter into an ancillary agreement with the city in which the developer provides to the city a predetermined guarantee for improvements in exchange for the city agreeing that the developer will seal all asphalt within the subdivision no later than two years after the completion of the subdivision and by a date agreed to by the city engineer; or

2. *Seal coat fee*. The developer may pay a seal coat fee to the city, and the city will seal all asphalt in the subdivision. The seal coat fee shall be equal to the square footage of road surfaces in the subdivision multiplied by the cost per square foot for the type of seal coat to be used. The fee per square foot shall be set by resolution of the city council in the master fee schedule and modified as needed from time to time.

Pursuant to either seal option stated above, the city's streets superintendent shall determine the type of seal coat to be used (chip seal, slurry seal, etc.) based on best practices for the type of street to be sealed. If a developer selects the seal coat fee option, the use of the fees collected for the actual application of the approved seal coat shall be at the discretion of the city as determined by the city's municipal budget. The seal coat fee shall be used by the city to accomplish the initial seal coating for the subdivision no later than two years after the completion of the subdivision.

(Code 1998, § 11-4-3; Subd. Ord., 1-24-1990; Ord. of 11-12-1996; Ord. No. 98-OM013, 6-8-1998; Ord. No. 009-2009, 10-27-2009; Ord. No. 012-2013, 10-8-2013; Ord. No. 024-2016, 11-1-2016; Ord. No. 2017-008, 4-25-2017; Ord. No. 2018-002, 4-10-2018)

## 11-4-4 Water System

A. *Design; construction*. The entire system shall be designed and constructed in accordance with city standards and the state health department standards. If

there is conflict between the standards, the most stringent shall rule.

B. *City standards*. The city standards are contained in the current city department of public works standards and specifications manual.

C. *Fees*. The costs for connection to the city water supply shall be specified in the fee schedule to be held in the city office.

D. *Fire hydrants*. Fire hydrants shall be installed at the expense of the developer and in accordance with the regulations of the fire department and city standards.

E. *City line to development*. Where a development does not border an existing city water line, the developer shall install and bear all costs of pipeline from the development to the nearest existing city water line.

(Code 1998, § 11-4-4; Subd. Ord., 1-24-1990; Ord. of 11-12-1996; Ord. No. 98-OM013, 6-8-1998; Ord. No. 009-2009, 10-27-2009; Ord. No. 012-2013, 10-8-2013; Ord. No. 024-2016, 11-1-2016; Ord. No. 2017-008, 4-25-2017; Ord. No. 2018-002, 4-10-2018)

## 11-4-5 Sewer System

A. *Standards and specifications*. See the current city department of public works standards and specifications manual.

B. *Fees*. The costs for connection to the city sewer system shall be specified in the fee schedule to be held in the city office.

C. *Wastes allowed*. Domestic wastes only shall be allowed to enter a common collection system. Downspouts for roof drains, basement drains which lower groundwater conditions, and other similar possible inflows to the sewer system shall not be allowed. Under no circumstance shall hazardous wastes or drainage from garage floors be allowed to enter a common collection system.

D. *City main to development*. As with the water system, the developer shall be responsible for extending and connecting to the nearest existing sewer main. The final line sized and final approval shall also be subject to approval by the city engineer.

(Code 1998, § 11-4-5; Ord. of 11-12-1996; Ord. No. 98-OM013, 6-8-1998; Ord. No. 009-2009, 10-27-2009; Ord. No. 012-2013, 10-8-2013; Ord. No. 024-2016, 11-1-2016; Ord. No. 2017-008, 4-25-2017; Ord. No. 2018-002, 4-10-2018)

## 11-4-6 Storm Drainage

A. *Ditches; canals*. No ditch or canal shall be approved as suitable for the use of storm drainage without the written permission of the appropriate ditch or canal company. At the discretion of the city, ditches, canals or other waterways may be prohibited on property dedicated or to be dedicated for public use.

B. *Structures provided*. Storm drains, cross-gutters, and other appurtenant structures shall be provided by the developer as required to adequately dispose of the 100-year frequency flood flows developed within the limits of the development along with the existing flows entering the proposed development from adjacent properties. The developer shall have the responsibility of providing off-site storm drain extensions in order to satisfactorily dispose of drainage.

C. *Plans*. Complete drainage systems for the entire development area shall be designed by a professional engineer, licensed in the state and qualified to perform such work, which shall be shown geographically. All existing drainage features which are to be incorporated in the design shall be so identified. If the development is to be platted in phases, a general drainage plan for the entire area shall be presented with the first phase, and appropriate development stages for the drainage structures shall be indicated. All proposed surface drainage structures shall be indicated on the plans. All appropriate designs, details, and dimensions needed to clearly explain proposed construction materials and elevations shall be included in the drainage plans.

D. *Design of system*. The drainage system shall be designed to accommodate a 100-year storm event, using rain fall data from sufficient sources, including, but not limited to, the nearest official weather station to track 100-year storm events. Systems shall be designed to:

    1. Permit the unimpeded flow of natural watercourses;
    2. Ensure adequate drainage of all low points; and
    3. Ensure applications of the following regulations regarding development in designated floodplains:
        a. Construction of buildings shall not be permitted in a designated floodway with a return frequency more often than a 100-year flood.
        b. Building construction may occur in the portion of the designated floodway where the return frequency is between a 100-year and a maximum probability flood, provided all usable floor space is constructed above the designated maximum probable flood level.

(Code 1998, § 11-4-6; Subd. Ord., 1-24-1991; Ord. of 11-12-1996; Ord. No. 98-OM013, 6-8-1998; Ord. No. 009-2009, 10-27-2009; Ord. No. 012-2013, 10-8-2013; Ord. No. 024-2016, 11-1-2016; Ord. No. 2017-008, 4-25-2017; Ord. No. 2018-002, 4-10-2018)

## 11-4-7 Irrigation Ditches

The subdivider shall work with irrigation, drainage or ditch companies and the city engineer with regards to ditches or canals as to:

A. *Covering, realigning, eliminating*. Methods of covering, realigning or eliminating ditches or canals within or adjoining the subdivision.

B. *Pipe size; culverts*. The size of pipe and culverts required.

C. *Responsibility*. The responsibility for the periodic inspecting, cleaning and maintaining of such ditches, pipes and culverts. In cases where canals or ditches cross public roads or proposed public roads, specifications and grades for pipe or culvert must be approved by the city engineer.

(Code 1998, § 11-4-7; Subd. Ord., 1-24-1990; Ord. of 11-12-1996; Ord. No. 98-OM013, 6-8-1998; Ord. No. 009-2009, 10-27-2009; Ord. No. 012-2013, 10-8-2013; Ord. No. 024-2016, 11-1-2016; Ord. No. 2017-008, 4-25-2017; Ord. No. 2018-002, 4-10-2018)

**11-4-8 (Reserved For Future Use)**

**11-4-9 Lighting**

The developer is responsible for the street lights, location to be determined by the city. The developer is responsible for the street lights along the frontage of and within the development. The developer will be responsible for all associated costs pertaining to the street lights and all coordination with the power company will be handled by the developer.

(Code 1998, § 11-4-9; Ord. of 11-12-1996; Ord. No. 98-OM013, 6-8-1998; Ord. No. 009-2009, 10-27-2009; Ord. No. 012-2013, 10-8-2013; Ord. No. 024-2016, 11-1-2016; Ord. No. 2017-008, 4-25-2017; Ord. No. 2018-002, 4-10-2018)

**11-4-10 Signs**

To ensure uniformity, the city shall make available all required street signs and the cost thereof shall be charged to and paid by the developer.

(Code 1998, § 11-4-10; Subd. Ord., 1-24-1990; Ord. of 11-12-1996; Ord. No. 98-OM013, 6-8-1998; Ord. No. 009-2009, 10-27-2009; Ord. No. 012-2013, 10-8-2013; Ord. No. 024-2016, 11-1-2016; Ord. No. 2017-008, 4-25-2017; Ord. No. 2018-002, 4-10-2018)

**11-4-11 Monuments**

Permanent monuments shall be furnished in conformance with the current city department of public works standards and specifications manual.

(Code 1998, § 11-4-11; Ord. of 11-12-1996; Ord. No. 98-OM013, 6-8-1998; Ord. No. 009-2009, 10-27-2009; Ord. No. 012-2013, 10-8-2013; Ord. No. 024-2016, 11-1-2016; Ord. No. 2017-008, 4-25-2017; Ord. No. 2018-002, 4-10-2018)

## CHAPTER 11-5 PUBLIC IMPROVEMENTS

11-5-1 Construction Drawings
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## 11-5-1 Construction Drawings

The developer's engineer shall be a professional engineer licensed in the state and shall prepare, or shall be responsible for the preparation of, all construction drawings relative to public improvements in and out of the development. The developer's engineer shall also prepare, as part of the construction documents, an estimate of the cost of construction of all the public improvements (list the required minimum improvements separately). Two copies of the construction drawings must be submitted with the final plat. All such drawings shall be reviewed and approved by the city. A signed approved set shall be kept at the construction site.

A. *Drawing alteration*. Any changes or alterations to the original drawings must be approved, in writing, by the city engineer prior to the construction of any such changes.

(Code 1998, § 11-5-1; Ord. No. 018-2007, 9-25-2007; Ord. No. 013-2013, 9-10-2013; Ord. No. 2018-014, 10-23-2018)

## 11-5-2 Building Permit Issuance; Minimum Improvements

A. Construction of public improvements shall proceed only after the construction drawings have been approved by all required entities. Building lots may be sold by the developer for the proposed subdivision only after the final plat has been recorded. The following minimum improvements shall be completed and in place before the city will issue a building permit for any lot within the proposed development:

1. All grading of roads (including pit run and road base) as shown on the approved construction drawings, and all curb, gutter, and all utility trenches that lay inside the roadway;

2. All stormwater (excluding finish grades and landscaping), water, sewer, and other improvements that may be deemed necessary minimum improvement; and

3. Egress and ingress to provide acceptable and safe travel to and from each lot in the approved subdivision. Construction zone signs provided and maintained by the city at the developer's expense must be installed as per the public works director.

B. *Inspection*. All required testing results and red line drawings must be turned in to the city before the minimum improvement inspection takes place. An inspection of the minimum improvements shall be made and the city engineer will certify to the city, in writing, that the minimum improvements are complete prior to the issuance of any building permits.

C. Asphalt shall not be laid prior to a minimum improvement inspection approval.

(Code 1998, § 11-5-2; Subd. Ord., 1-24-1990; Ord. No. 018-2007, 9-25-2007; Ord. No. 013-2013, 9-10-2013; Ord. No. 2018-014, 10-23-2018)

**11-5-3 Completion Of Construction; Time Limit**

A. Construction must be completed within a two-year time period. The two-year time period begins on the date the construction drawings were signed by the city engineer.

B. At the completion of construction, or prior to the end of the maximum two-year time period, whichever comes first, the city shall make an inspection of all improvements and inform the developer of their findings. At the completion of construction, the developer shall call for an inspection by the city, and that inspection shall be made within ten days of the written request. The developer's engineer shall provide the city with as-built drawings accurately defining, for permanent record, the surface improvements and underground utilities as they were actually constructed. A construction punch list will be made up by the city indicating the items missed or needing correction prior to acceptance of the improvements by the city, and all required replacements or repairs shall be completed by the developer, at the developer's expense, prior to acceptance by the city.

(Code 1998, § 11-5-3; Ord. No. 018-2007, 9-25-2007; Ord. No. 013-2013, 9-10-2013; Ord. No. 2018-014, 10-23-2018)

**11-5-4 Mandatory Approval Stages**

The following list of mandatory approvals is required by the city. It is the responsibility of the developer to either notify or cause the developer's subcontractors to notify the city in

order that these approvals can be made. Failure to do so may result in work stoppage until the approvals are complete. Detailed approvals are listed in the standards and specifications manual. The city shall be given 24 hours' (business days only) notice to schedule the following approvals:

A. The city must receive a written notice of approval from the city engineer before the development can begin the next approval stage.

    1. *Preconstruction meeting*. A pre-construction meeting will be held with the developer, general contractor for the development, and city staff prior to beginning any construction in the development, including grading and trenching.

        a. It is the developer's responsibility to notify the general contractor and all appropriate subcontractors for the development of their required attendance at the preconstruction meeting and that no construction can commence until after that meeting.

        b. The stormwater notice of intent (NOI) and stormwater pollution prevention plan (SWPPP) must be in place prior to the preconstruction meeting.

    2. *Minimum improvements*. An inspection of the minimum improvements shall be made and the city engineer will certify to the city, in writing, that the minimum improvements are complete prior to the issuance of any building permits.

        a. The city must receive a written notice of approval of minimum improvement before asphalt installed.

    3. *Substantial completion*. A substantial completion inspection shall be made when the construction is 100 percent completed in accordance with the approved development and public improvement installation agreement and approved construction drawings as modified by any change orders agreed to by the developer and approved by the city engineer.

        a. A list of items to be corrected (punch list) will be given to the developer and/or contactor. The failure to include an item on the punch list does not alter the responsibility of the developer and/or contractor to complete all the work in accordance with the approved development and public improvement installation agreement and approved construction drawings, including any change orders agreed to by the developer and approved by the city engineer.

    4. *Final*. A final inspection shall be made when the construction and all

items on the punch list are 100 percent complete and installed in accordance with the approved development and public improvement installation agreement and approved construction drawings as modified by any change orders agreed to by the developer and approved by the city engineer.

a. The warranty period shall not begin until the city engineer certifies, in writing, that all improvements are 100 percent complete.

5. *Warranty*. The developer shall warrant that the public improvements shall remain in good condition and free from all defects in performance, materials and workmanship during the warranty period except where such damage or defects are caused by verified acts of misuse, vandalism, or negligent acts of parties other than those associated in any way with the design, construction, and/or materials used in development, including, but not limited to, developer, subcontractors, engineers, consultants, etc.

a. The warranty security will not be released until the city engineer certifies, in writing, that the Public Improvements are in good condition and free from all defects in performance, materials, and workmanship.

B. If the improvements fail after receiving a written approval for subsections A.2, 3, and 4 of this section, the approval is void. The developer must resolve the failure and receive written approval that the failure has been corrected before moving to the next stage.

C. Scope and limitations of the inspection and report and/or punch list. The inspection report and/or punch list is not an all-encompassing report and/or punch list dealing with the improvement in every aspect. It is a reasonable attempt to identify any obvious or significant defects apparent at the time of the inspection.

1. This is a visual inspection only and limited to those areas and sections of the property fully accessible and visible to the inspector on the date of the inspection.

2. The inspection report and/or punch list does not and cannot make comment upon defects that may have been concealed; or the assessment or detection of defects which may be subject to the prevailing weather conditions.

3. The inspector's presence on-site does not constitute an inspection or approval.

(Code 1998, § 11-5-4; Ord. No. 018-2007, 9-25-2007; Ord. No. 013-2013, 9-10-2013; Ord. No. 2018-014, 10-23-2018)

## 11-5-5 Acceptance

A. The subdivision of lands shall not be accepted by the city without the city and developer first receiving a statement signed by the city engineer that the improvements described in the approved construction drawings and the approved development agreement and addendum have been completed.

B. Additionally, any subdivision of lands shall not be accepted without the developer having first provided the city with a one-year written guarantee on all public improvements installed.

(Code 1998, § 11-5-5; Subd. Ord., 1-24-1990; Ord. No. 018-2007, 9-25-2007; Ord. No. 013-2013, 9-10-2013; Ord. No. 2018-014, 10-23-2018)

## 11-5-6 (Reserved For Future Use)

## 11-5-7 Security Of Performance

The security of performance required by this section is to ensure the city that all improvements are constructed in conformance with all relevant city ordinances, regulations and standards, and to ensure the city that all expenses incurred for labor and materials used in the construction of the same are paid for by the developer.

A. *Warranty bond*. A minimum of a one-year warranty bond of ten percent of the reasonable value of all the public improvements required herein, as verified by the city engineer's estimate, shall be in place at the time the final plat is recorded.

    1. If the approved bid is higher than the engineer's estimate, the city reserves the right to require the amount be increased to ten percent of the approved bid.

    2. If suspect soil is present a longer bond, as determined by the city engineer, may be required.

B. *Public improvement completion security*. To ensure completion of the public improvements required herein, a public improvement completion security on the remaining improvements shall be in place prior to the issuance of a building permit.

    1. *Amount*. The amount determined by the city engineer shall be equal to at least 100 percent of the reasonable value of the improvements required herein.

    2. If the approved bid is higher than the engineer's estimate, the city reserves the right to require the amount be increased to 100 percent of the approved bid.

3. *Methods*. The public improvement completion security may at the city's sole discretion, be furnished by any of the following methods:

    a. By providing a performance, surety or cash bond in the amount specified and conditioned upon payment by the developer of all expenses incurred for labor and materials used in the construction of the required improvements. This method of security shall be preferred by the city.

    b. By depositing the specified amount of cash in a bank account to which the city alone has access, but only in the event it becomes necessary, in order to complete, repair or replace the improvements as set forth in this chapter.

    c. By providing the city with an irrevocable letter of credit issued by an acceptable financial institution naming the city as the sole beneficiary with a maturity date of at least two years and three months from the date of recording the final plat.

    d. By depositing the specified amount of cash in a supervised bank account to which the developer has access, with the approval and signature of the city, which funds shall be used to pay for the improvements as construction is completed and evidence lien waivers. In the event it becomes necessary for the city to foreclose on the public improvements completion security and move to complete, repair or replace the improvements as set forth, then the city shall have access to said supervised bank account for the purpose of completing, repairing, or replacing improvements without the necessity of obtaining the approval of the developer.

    e. By giving other security in an amount approved by the city. This method shall be accepted only at the option of the city. In addition, the city must have official appraisals, a title report and review all encumbrances on the assets being offered before this method may be accepted.

C. In the event construction of the public improvements is not completed, or is not completed in a satisfactory manner, within the negotiated time period but not to exceed two years from the date the construction drawings were approved with all required signatures, the city may proceed to install the improvements at the developer's expense by foreclosing on the developer's security of performance held by the city. If said security is insufficient to pay for said improvements, which the city shall cause to be installed, then the developer shall be liable for any deficiency and reasonable attorney fees realized by the city.

D. In the event the public improvements fail to meet the standards as set forth in the developer's written guarantee, the city shall so notify the developer who shall be

given a reasonable time to repair of otherwise correct as requested or the city may proceed to repair or replace the unsatisfactory improvements at the developer's expense by foreclosing on any security of performance still held by the city; and, in addition, the city may avail itself of any other remedy provided to it under the laws of the state and of the city.

(Code 1998, § 11-5-7; Ord. No. 003-00, 1-25-2000; Ord. No. 018-2007, 9-25-2007; Ord. No. 013-2013, 9-10-2013; Ord. No. 2018-014, 10-23-2018)

**11-5-8 (Reserved For Future Use)**

**11-5-9 Adjacent Streets**

It shall become the responsibility of the developer to pay for all of the required public improvements as determined by the city, including, but not limited to, a complete street cross section with all underground improvements.

(Code 1998, § 11-5-9; Ord. No. 018-2007, 9-25-2007; Ord. No. 013-2013, 9-10-2013; Ord. No. 2018-014, 10-23-2018)

**11-5-10 (Reserved For Future Use)**

**11-5-11 Extension Of Public Works Facilities**

The extension of any city public works facilities, including, but not limited to, roads, bridges, storm drains, water mains, sewer lines, and secondary water systems, shall be installed by the developer of any development. Layout must provide for future extension to adjacent development and be compatible with the contour of the ground for proper drainage. All public improvements shall be installed to the boundary lines of the development. There shall be no consideration or return to the developer within the area. The city, however, will consider cost sharing on any water line that is in excess of an eight-inch diameter or any sewer line that is in excess of a ten-inch diameter, in the event the city desires to participate for future planning purposes.

(Code 1998, § 11-5-11; Subd. Ord., 1-24-1990; Ord. No. 018-2007, 9-25-2007; Ord. No. 013-2013, 9-10-2013; Ord. No. 2018-014, 10-23-2018)

**11-5-12 Utilities**

All utilities, privately or publicly owned, shall be placed underground. This includes, but shall not be limited to, telephone, gas, electric power, water, sewer, cable television and irrigation lines. Exceptions to this may be considered.

(Code 1998, § 11-5-12; Ord. No. 018-2007, 9-25-2007; Ord. No. 013-2013, 9-10-2013; Ord. No. 2018-014, 10-23-2018)

## 11-5-13 City Water And Sewer Systems

All developments located within the corporate boundaries of the city shall be required to connect to the water and sewer systems of the city, except as provided by a resolution to the contrary.

(Code 1998, § 11-5-13; Subd. Ord., 1-24-1990; Ord. No. 018-2007, 9-25-2007; Ord. No. 013-2013, 9-10-2013; Ord. No. 2018-014, 10-23-2018)

## 11-5-14 Sharing Development Costs

Public works improvements shall be paid for by the developers and landowners who will benefit by their existence and use as set forth in this section.

A. *Compensation*. Circumstances where the original developer may be compensated by adjacent landowners or by the city for a portion of the cost for these improvements:

    1. *Adjacent landowner*. The owner of any parcel of land that has frontage along and/or is immediately adjacent to any public works improvements, which landowner would benefit from connecting onto or accessing the public works improvements without additional easements or rights-of-way. Parcels of land that could only be served by an extension of the public improvements beyond the end of those that were installed by the original developer are not included.

    2. *City compensation*. The city may use PCC 11-5-11 as a guide for determining whether or not to assist a developer where the potential for future growth may present a demand for up-sized water or sewer lines or extra width for a road.

        a. In addition to PCC 11-5-11, the city may provide funds from impact fees that would expand and improve public works in already existing public rights-of-way, or in areas where upgrades are needed but not done, provided the use of impact fees is in compliance with state and city law.

        b. The city may use impact fees to assist with off-site improvements as allowed by law so that reimbursement to the developer will not have to be tracked in the future.

        c. All agreements and the dollar amounts of the financial commitment by the city must be part of the development agreement.

        d. When the city participates with a developer as herein mentioned, then there will be no additional compensation due from adjacent landowners to the developer.

e. In the event the city determines to participate in the costs of certain public works improvements proposed by a developer, the city's participation will generally involve the expenditure of impact fees as allowed by law, in the anticipation that the city will be reimbursed through the collection of impact fees at the time building permits are issued as development occurs and/or through receipt of sales tax revenues.

3. *Compensation from adjacent landowners*. Where an adjacent landowner may benefit from the installation of public works improvements, a developer may contact the adjacent landowner and solicit participation in the costs for such improvements from the adjacent landowner.

    a. If an agreement is reached, a written agreement for sharing development costs by adjacent landowners that may use the improvements shall be submitted by the developer initially responsible for the improvements, along with the final plat.

4. *No participation from adjacent landowners*. Where adjacent landowners do not participate as described in subsection A.3 of this section, and the city does not participate as described in subsection A.2 of this section, then the original developer may be entitled to compensation from adjacent landowners as follows:

    a. *Submitting a statement of costs*. The original developer must file a letter or other written notice with the city by not later than the date of final plat approval by the city council, indicating the original developer's intent to be considered for reimbursement of a portion of the costs of constructing public works improvements as provided in this chapter.

        (1) The letter or other written notice must provide an estimate of costs for the public works improvements to be installed by the developer.

        (2) This letter or other written notice will be used by the city to alert future adjacent landowners or their developers of their responsibility to the original developer, if they should begin to develop their adjacent real property before the original developer has completed installation of the required public works improvements.

        (3) The failure to submit the referenced letter or other written notice to the city by the date of final plat approval by the city council shall constitute a wavier by the original developer of the right to request reimbursement as contemplated by this section.

5. No developer may use this chapter for shared development costs as a basis for unapproved private compensation or to control, direct, or deter growth within the city.

    a. The city requires that all compensation of one developer to another be accomplished by using this chapter and be done in writing and in conjunction with the city.

    b. Developers may continue, however, to combine their resources and work together in developing areas or a combination of areas, as proposals are made, as described in subsection A.3 of this section.

B. *Completion*.

1. When the original development's public improvements are completed and accepted in writing by the city, the original developer has 30 days from the date of acceptance of said improvement by the city, to file a statement of actual expenses incurred for the public works improvements.

    a. Itemize each item of the public improvements, with complete itemization of the costs incurred for each item. Statement may include engineering costs. Statement shall include developer's proposed division of such costs between the developer and adjacent landowners.

    b. Should the original developer fail to file the statement of actual expenses incurred for the public works improvements as required by this subsection, within 30 days from the date of acceptance of the public works improvements by the city, or fail to submit the as-built drawings as required by the city's subdivision ordinance, the original developer's request for compensation/reimbursement and any determination made by the commission and/or the city council shall become null and void.

2. *Future development; pro-rata share*. Future development by owners of land adjacent to these public improvements will not be approved by the city until the new developer agrees in writing to compensate the original developer, or the developer's legal agent, for a pro-rata share of the costs of the public works improvements, as was approved by the city.

3. *Reimbursement to the original developer*. Reimbursement to the original developer shall be 100 percent of the pro rata share during the first five years following the date of completion and acceptance by the city of the public works improvements. The pro rata share shall be depreciated 20 percent per year thereafter, and no pro rata share shall be due to the

developer after ten years following the acceptance date by the city.

(Code 1998, § 11-5-14; Ord. No. 004-00, 1-25-2000; Ord. No. 018-2007, 9-25-2007; Ord. No. 013-2013, 9-10-2013; Ord. No. 2018-014, 10-23-2018)

## CHAPTER 11-6 CONDOMINIUM APPROVAL

11-6-1 Purpose And Intent
11-6-2 Submission Of Application
11-6-3 Staff Review
11-6-4 Planning Commission Action
11-6-5 Final Plat Recordation

### 11-6-1 Purpose And Intent

A. The procedures and requirements of this chapter shall apply to and govern the processing of condominium records of survey maps pursuant to the requirements of the Condominium Ownership Act (U.C.A. 1953, § 57-8-1 et seq.). Said procedures and requirements shall supplement zoning, site development, health, building and other ordinances applicable to a particular condominium project, and shall apply to the approval of such projects involving new construction as well as those involving the conversion of existing structures. In addition, condominium projects, which contemplate dedication of real property or improvements for the use of the public, or condominium projects in which units are not contained in existing or proposed buildings shall also be considered subdivisions requiring compliance with the applicable provisions of this chapter.

B. It is the intent of this chapter to establish a reasonable process whereby the city can assess the impact of mixing collective and individual ownerships, as presented in a particular condominium project, upon the public health, safety, welfare and convenience of the city. In the case of conversions of existing commercial or residential buildings to condominiums, corrections of building code violations, the upgrading of vehicle parking facilities, and safety of common functional elements of the structures are of prime importance.

(Code 1998, § 11-6-1; Ord. No. 2016-005)

### 11-6-2 Submission Of Application

A. *Documents and information required*. The owner or developer of a proposed condominium project desiring approval shall file the following with the planning commission:

1. An application for condominium approval on a form prescribed by the city;
2. Four copies (20-inch by 30-inch minimum, 24-inch by 36-inch maximum size) and one 21-inch by 31-inch copy of the proposed record of survey

map required by U.C.A. 1953, § 57-8-13. The map shall also:

a. Be drawn to a scale no smaller than one inch equals 40 feet;

b. Contain diagrammatic floor plans identifying boundaries of the project units, convertible and expandable areas or spaces and common areas;

c. Contain a designation of the intended use of common areas, such as storage areas, recreational areas, parking areas for owners, guests, open space, etc.;

d. Contain a designation of the common areas which are open to the public, which are assigned to specific units and which are semiprivate and available only to unit owners;

e. Contain a detailed description of existing or proposed driveways, pedestrian ways, curb cuts, walls, structures, fences, landscaping and sprinkling systems; and

f. Show individual utility connections for each unit. The culinary water must be master metered. The city will bill the condominium association, not individual units;

3. Two copies signed in the original of the proposed condominium declarations and bylaws;

4. A condominium application filing fee, which shall be equal to the filing fee the developer pays for the subdivision application;

5. Proposed covenants, conditions and restrictions which provide adequate guarantees for retention and maintenance of the development as approved.

B. *Meetings*. The city staff (or the city staff's assigns) may, at their discretion, meet with developers to comment on incomplete applications. Such meetings shall not be deemed acceptance of such incomplete applications for purposes of determining vested rights, and the city departments shall not retain copies of such incomplete applications. The city shall not schedule meetings and hearings before the planning commission on an application that is not complete.

(Code 1998, § 11-6-2; Ord. No. 2016-005)

## 11-6-3 Staff Review

Upon receipt of a completed application for approval of a condominium project, the city staff shall route copies of the application and development plans in the same manner as a standard subdivision. Additionally, preliminary review by the planning staff and fire chief shall include, but not be limited to, the following:

A. *Staff review*.

1. *Letter of intent*. A letter of intent shall be submitted indicating proposed concept of project for staff review. The condominium declarations and bylaws shall be reviewed as part of the final approval process and will include provisions addressing and fixing responsibility for the maintenance, upkeep and repair of common areas, including common walls, electrical, mechanical, plumbing or utility systems, recreational areas, landscaping, private streets and parking areas. The declarations shall also restrict the use of any individual residential dwelling unit to single families. The staff shall also review the declaration to require appropriate disclosure of any unusual circumstances, variances or conditions placed upon the condominium project for approval.

    a. *Fire safety review*. The fire marshal shall inspect each structure proposed for conversion to condominiums and shall submit a report thereon to the planning staff outlining the conditions of the structures as they relate to fire safety. The fire marshal shall stipulate those conditions requiring improvement prior to occupancy in the report.

    b. *City attorney*. The city attorney shall review the declaration of condominium to ensure its conformance to the state code and city ordinances.

2. *Plans and related documents*. The staff shall review the plans and related documents to determine whether the project conforms to applicable requirements of this title, the status or extent of nonconforming rights, applicable conditions imposed upon the building or use by ordinance, and/or conditional use permit. If the staff finds there are violations of applicable zoning ordinances or requirements, the staff may recommend denial of the condominium project until such violations have been corrected or requirements completed or monies escrowed for 110 percent of the cost for correction before a decision can be made by the planning commission.

(Code 1998, § 11-6-3; Ord. No. 2016-005)

**11-6-4 Planning Commission Action**

A. *Compliance requirements*. Upon completion of the recommendations of the staff, the matter shall be set for consideration by the planning commission. The planning commission shall review the application to determine if it is in full compliance with:

1. Applicable city ordinances;

2. The requirements of the Condominium Ownership Act (U.C.A. 1952, § 57-8);

3. In every way, the project is ready for final approval.

B. *Planning commission action*. Upon completion of the planning commission's review, it shall take action as the land use authority for subdivisions.

1. *Approval granted*. If the planning commission finds that the project is in compliance with applicable ordinances and the requirements of final plat approval, the planning commission shall grant approval.

2. *Disapproval*. If the planning commission determines said project is not in conformity with requirements of the ordinances of the city, or if it rejects any offers of dedication, the planning commission may disapprove the plat specifying the reasons for disapproval.

3. *Reconsideration*. Within 30 days after the planning commission has disapproved any final plat, the developer may file with the city a revised plat and/or documents altered to meet the requirements of the planning commission. Upon receipt of the revised final plat and/or documents, and review by the executive staff, the matter shall be referred back to the planning commission for reconsideration.

4. *Approval and recording required*. No final plat shall have any force or effect until the same has been approved by the signature of the mayor and has been officially recorded with the county recorder within 60 days from the date of the planning commission's approval.

(Code 1998, § 11-6-4; Ord. No. 2016-005)

**11-6-5 Final Plat Recordation**

A. *Requirements*. For purposes of recordation, the final approved plat shall be recorded as a subdivision and be included in the subdivision plat records of the county recorder's office. Recordation by the city shall only take place after all of the necessary signatures are obtained, all approvals given, and all bonds and fees are posted with the city public works department.

B. *Covenants, conditions and restrictions*.

1. The city shall require the applicant to submit for recording covenants, conditions and restrictions which will provide adequate guarantees for the permanent retention and maintenance of open space area, landscaping, natural features, private streets, other privately-owned infrastructure and architectural design standards in accordance with applicable rules, standards, and policies, including, but not limited to, the state code, this

Code and the city public works standards and specification manual. The covenants, conditions and restrictions shall include, at a minimum, provisions for:

a. The establishment of a condominium association, unless the property will continue to be held in single ownership by either a corporation, partnership or an individual, and restrictions are recorded requiring establishment of a condominium association in the event that the unity of title is not maintained; and

b. A provision granting the city the consent of the condominium association and each of its members, after providing notice to each property owner and holding a public hearing, to create a special assessment area comprised of all units and lots within the development, to finance the cost of reasonably necessary maintenance, repair or replacement of commonly-owned essential public infrastructure such as streets, sidewalks, street lighting, water systems, etc., in the event of dissolution or default by the condominium association. It is the intent of this provision that once the city uses the special assessment area to finance the reasonably necessary maintenance, repairs, etc., future maintenance and repairs would be treated as any other city infrastructure project.

2. Each phase submitted for review shall include covenants, conditions and restrictions for approval.

3. Two copies of the declaration of covenants, conditions and restrictions shall be submitted to the city signed and prepared for recording at the county recorder's office prior to approval of a final plat. Prior to recordation, the covenants, conditions and restrictions shall be reviewed and approved for compliance with this chapter by the community development director and city attorney.

4. The applicant shall be responsible for recording and recording fees.

(Code 1998, § 11-6-5; Ord. No. 2016-005)

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| Ord. No. 012-01 | 12-11-2001 | -- | 1-7-6 |
| Ord. No. 003-02 | 3-26-2002 | -- | 10-3-6 |
| Ord. No. OM 002-02 | 3-26-2002 | -- | 10-8-7 |
| Ord. No. 007-2002 | 5-14-2002 | -- | 1-3-2 |
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| Ord. No. OM 019-99 | 7-27-1999 | -- | 10-8-5 |
| Ord. No. 009-2002 | 6-11-2002 | -- | 10-8-5 |
| Ord. No. 012-2002 | 9-10-2002 | -- | 8-2-15 |
| Ord. No. 002-2003 | 3-11-2003 | -- | 2-3-1--2-3-3 |
| Ord. No. 007-2003 | 8-12-2003 | -- | 10-14-2 |
| Ord. No. 012-2003 | 11-25-2003 | -- | 2-1-1--2-1-4 |
| Ord. No. 014-2003 | 11-25-2003 | -- | 10-3-6 |
| Ord. No. 007-2004 | 2-10-2004 | -- | 2-1-1--2-1-4 |
| Ord. No. 009-2004 | 3-9-2004 | -- | 11-3-0--11-3-3 |
| | | -- | 11-3-6--11-3-8 |
| Ord. No. 011-2004 | 3-23-2004 | -- | 1-3-2 |
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| Ord. No. OM 016-2004 | 5-11-2004 | -- | 10-6-1 |
| Ord. No. 028-2004 | 10-26-2004 | -- | 7-1-3 |
| Ord. No. 033-2004 | 11-23-2004 | -- | 1-3-2 |
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| Ord. No. 004-2005 | 1-18-2005 | -- | 1-3-2 |
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| Ord. No. 006-2005 | 2-8-2005 | -- | 1-3-2 |
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| Ord. No. 010-2004 | 7-26-2005 | -- | 1-3-2 |
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| Ord. No. 012-2005 | 11-9-2005 | -- | 7-2-1 |
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| Ord. of 12-13-2005 | 12-13-2005 | -- | 1-3-2 |
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| Ord. No. 001-2006 | 1-10-2006 | -- | 8-1-4 |
| Ord. No. 002-2006 | 1-10-2006 | -- | 1-3-2 |
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| Ord. No. OM 007-2006 | 5-23-2006 | -- | 10-6-1 |
| Ord. No. 006-2006 | 6-27-2006 | -- | 1-3-2 |
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| | | -- | 10-12-3--10-12-6 |
| Ord. No. 012-2006 | 10-24-2006 | -- | 2-1-1 |
| Ord. No. 013-2006 | 11-14-2006 | -- | 1-3-2 |
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| Ord. No. 016-2006 | 11-14-2006 | -- | 2-1-3 |
| Ord. No. 001-2007 | 1-9-2007 | -- | 1-3-2 |
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| Ord. No. 002-2007 | 1-9-2007 | -- | 1-3-2 |
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| Ord. No. 018-2007 | 9-25-2007 | -- | 1-3-1, 1-3-2 |
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| Ord. of 9-25-2007 | 9-25-2007 | -- | 1-3-1, 1-3-2 |
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| Ord. No. 003-2008 | 2-26-2008 | -- | 1-3-2 |
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| Ord. No. 004-2008 | 3-13-2008 | -- | 1-3-2 |
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| Ord. No. 015-2008 | 11-11-2008 | -- | 1-3-2 |
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| Ord. No. 002-2009 | 5-26-2009 | -- | 1-3-2 |
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| Ord. No. 003-2009 | 5-26-2009 | -- | 1-3-2 |
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| Ord. No. 004-2009 | 8-25-2009 | -- | 7-1-1--7-1-6 |
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| Ord. No. 005-2009 | 09-22-2009 | -- | 10-1-1--10-1-3 |
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| Ord. No. 002-2011 | 4-26-2011 | -- | 1-3-2 |
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| | | -- | 10-16-4--10-16-9 |
| Ord. No. 006-2011 | 7-26-2011 | -- | 1-3-1, 1-3-2 |
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| Ord. No. 008-2011 | 10-11-2011 | -- | 1-3-2 |
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| Ord. No. 010-2011 | 11-8-2011 | -- | 2-1-1--2-1-4 |

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| Ord. of 3-3-2012 | 3-3-2012 | -- | 1-3-2 |
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| Ord. No. 001-2012 | 4-10-2012 | -- | 10-1-1--10-1-3 |
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| Ord. No. 008-2012 | 6-12-2012 | -- | 11-3-0--11-3-3 |
| | | -- | 11-3-6--11-3-8 |
| Ord. No. 014-2012 | 9-25-2012 | -- | 1-3-2 |
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| Ord. No. 002-2013 | 4-9-2013 | -- | 1-3-2 |

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| Ord. No. 005-2013 | 7-1-2013 | -- | 1-3-2 |
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| Ord. No. 003-2013 | 7-9-2013 | -- | 7-1-1--7-1-6 |
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| Ord. No. 004-2013 | 7-9-2013 | -- | 1-3-2 |
| | | -- | 7-7-1--7-7-3 |
| | | -- | 7-7-5--7-7-8 |
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| Ord. No. 001-2013 | 8-06-2013 | -- | 10-1-1--10-1-3 |
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| Ord. No. 010-2013 | 9-10-2013 | -- | 11-2-1--11-2-7 |
| Ord. No. 011-2013 | 9-10-2013 | -- | 11-3-0--11-3-3 |
| | | -- | 11-3-6--11-3-8 |
| Ord. No. 013-2013 | 9-10-2013 | -- | 1-3-2 |
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| Ord. No. 014-2013 | 9-10-2013 | -- | 10-6-1, 10-6-2 |
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| Ord. No. 019-2013 | 10-8-2013 | -- | 1-3-2 |
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| Ord. No. 015-2013 | 11-7-2013 | -- | 1-3-2 |
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| Ord. No. 002-2014 | 6-24-2014 | -- | 1-3-2 |
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| Ord. No. 003-2014 | 7-8-2014 | -- | 1-3-2 |
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| Ord. No. 006-2014 | 9-23-2014 | -- | 11-3-0--11-3-3 |
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| Ord. No. 008-2014 | 12-9-2014 | -- | 1-3-2 |
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| Ord. No. 009-2014 | 1-12-2015 | -- | 1-3-2 |
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| Ord. No. 2015-005 | 1-27-2015 | -- | 7-6-1--7-6-4 |
| Ord. No. 2015-007 | 2-24-2015 | -- | 10-4-1--10-4-6 |
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| Ord. No. 2015-010 | 3-14-2015 | -- | 11-2-7 |
| Ord. No. 2015-011 | 3-24-2015 | -- | 10-6-1, 10-6-2 |
| Ord. No. 2015-10 | 3-24-2015 | -- | 11-3-0--11-3-3 |
| | | -- | 11-3-6--11-3-8 |
| Ord. No. 2015-015 | 6-9-2015 | -- | 1-3-2 |
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| Ord. No. 2015-016 | 7-14-2015 | -- | 1-3-2 |
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| Ord. No. 2015-019 | 8-25-2015 | -- | 10-5-1--10-5-10 |

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| Ord. No. 2015-020 | 11-17-2015 | -- | 10-8-3 |
| Ord. No. 2015-021 | 12-8-2015 | -- | 10-6-1, 10-6-2 |
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| Ord. No. 2016-016 | 7-12-2016 | -- | 10-6-1, 10-6-2 |
| Ord. No. 2016-018 | 7-26-2016 | -- | 1-3-2 |
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| Ord. No. 003-2016 | 7-29-2016 | -- | 1-3-2 |
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| Ord. No. 2016-019 | 8-9-2016 | -- | 1-3-2 |
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| Ord. No. 2016-020 | 8-23-2016 | -- | 1-3-2 |
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| Ord. No. 023-2016 | 10-11-2016 | -- | 1-3-2 |
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| Ord. No. 2017-001 | 1-10-2017 | -- | 11-3-0--11-3-3 |
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| Ord. No. 2017-004 | 3-28-2017 | -- | 10-5-1--10-5-10 |
| Ord. No. 2017-006 | 4-11-2017 | -- | 1-3-2 |
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| Ord. No. 2017-007 | 4-25-2017 | -- | 1-3-2 |
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| Ord. No. 2017-008 | 4-25-2017 | -- | 11-4-1--11-4-7 |
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| Ord. No. 2018-002 | 4-10-2018 | -- | 11-4-1--11-4-7 |
| | | -- | 11-4-9--11-4-11 |
| Ord. No. 2018-004 | 4-24-2018 | -- | 1-3-2 |
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| Ord. No. 2018-005 | 4-24-2018 | -- | 10-4-1--10-4-6 |
| Ord. No. 2018-011 | 10-23-2018 | -- | 1-3-2 |
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| Ord. No. 2018-012 | 10-23-2018 | -- | 10-9-1--10-9-6 |
| Ord. No. 2018-013 | 10-23-2018 | -- | 11-3-0--11-3-3 |
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| Ord. No. 2018-014 | 10-23-2018 | -- | 1-3-2 |
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| Ord. No. 2018-016 | 12-11-2018 | -- | 1-3-2 |
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| Ord. No. 2019-001 | 1-8-2019 | -- | 10-4-1--10-4-6 |
| Ord. No. 2019-003 | 2-12-2019 | -- | 1-3-2 |
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| Ord. No. 2019-008 | 3-26-2019 | att.(8-5-1) | 8-5-1 |
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| | | att.(1-12-9) | 1-12-9 |
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| Ord. No. 2019-015 | 8-27-2019 | 1-7-1 | 1-7-1 |
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| Ord. No. 2019-017 | 10-8-2019 | att.(8-5-1) | 8-5-1 |
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| Ord. No. 2019-018 | 10-22-2019 | -- | 1-3-2 |
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| | | -- | 10-1-5, 10-1-6 |
| Ord. No. 2019-019 | 10-22-2019 | -- | 10-6-1, 10-6-2 |
| Ord. No. 2019-020 | 10-22-2019 | -- | 1-3-2 |
| | | -- | 10-12-1 |
| | | -- | 10-12-3--10-12-6 |
| Ord. No. 2019-021 | 10-22-2019 | -- | 7-1-1--7-1-6 |
| | | -- | 7-1-8 |
| Ord. No. 2019-023 | 11-12-2019 | -- | 10-6-1, 10-6-2 |
| Ord. No. 2019-024 | 11-12-2019 | -- | 1-3-2 |
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| | | -- | 10-3-4--10-3-7 |
| Ord. No. 2019-026 | 12-4-2019 | -- | 10-14-1, 10-14-2 |
| Ord. No. 2020-001 | 2-19-2020 | -- | 1-3-2 |
| | | -- | 9-1A-1--9-1A-8 |
| Ord. No. 2020-002 | 2-19-2020 | -- | 1-3-2 |
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| Ord. No. 2020-003 | 2-19-2020 | -- | 1-3-2 |
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| Ord. No. 2021-004 | 4-21-2021 | -- | 1-3-2 |
| | | -- | 5-1-1, 5-1-2 |
| | | -- | 5-1-4--5-1-31 |
| Ord. No. 2021-002 | 7-1-2021 | -- | 3-2A-3 |
| Ord. No. 2021-011 | 7-21-2021 | -- | 1-3-2 |
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| Ord. No. 2021-0012 | 7-21-2021 | -- | 10-4-1--10-4-3 |
| | | -- | 10-4-5, 10-4-6 |
| | | att.(10-4-4) | 10-4-4 |
| Ord. No. 013-2021 | 10-20-2021 | att.(10-8-9) | 10-8-9 |
| Ord. No. 017-2021 | 10-20-2021 | att.(2-5-1) | 2-5-1 |
| | | att.(2-5-2) | 2-5-2 |
| | | att.(2-5-3) | 2-5-3 |
| | | att.(2-5-4) | 2-5-4 |
| Ord. No. 018-2021 | 10-20-2021 | att.(10-5-1) | 10-5-1 |
| | | att.(10-5-2) | 10-5-2 |
| | | att.(10-5-3) | 10-5-3 |
| | | att.(10-5-4) | 10-5-4 |
| | | att.(10-5-5) | 10-5-5 |
| | | att.(10-5-6) | 10-5-6 |
| | | att.(10-5-7) | 10-5-7 |
| | | att.(10-5-8) | 10-5-8 |
| | | att.(10-5-9) | 10-5-9 |
| | | att.(10-5-10) | 10-5-10 |
| Ord. No. 01-2022 | 2-16-2022 | 3-2C-1 | 3-2C-1 |
| | | 3-2C-2 | 3-2C-2 |
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| Ord. No. 004-2014 | | -- | 1-3-2 |
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| Ord. No. 006-01 | | -- | 1-3-2 |
| Ord. No. 009-2010 | | -- | 1-3-2 |
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| Ord. No. 009-2021 | | -- | 10-15-6 |
| Ord. No. 011-2002 | | -- | 1-3-2 |
| Ord. No. 014-2005 | | -- | 1-3-2 |
| Ord. No. 12-233 | | -- | 1-3-2 |
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| Ord. No. 2006-49 | 2006 | -- | 5-7-1 |
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| Ord. No. OM 020-2004 | | -- | 10-6-1 |