



City of Honeyville

Box Elder County, Utah

Municipal Code

Compiled: Wednesday, March 28, 2018

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Preface

The Honeyville City Municipal Code of Honeyville, Utah, was initially published by Sterling Codifiers, and adopted by the City Council. The Code was maintained and updated through Ordinance No. 2009-05, passed April 8, 2009.

In 2014, administration of the Municipal Code began under the direction of the City Recorder, Emily Ketsdever, and with the codification assistance of Municipal Code Online, Inc. This Municipal Code shall be cited as the Honeyville City Municipal Code or "HMC" as an acronym.

This Honeyville City Municipal Code (HMC) is up to date as of October 30, 2015.

HMC maintains a structure by subject matter using a hyphenated numbering system. The Title and Chapters are labeled as such, but the section levels are not labeled as such except by variable alone. For easier verbal or written reference, the first number in the sequence may designate the title, the second number may designate the chapter, and the last number may designate the section (ex: 1-3-10). Stating a sequence in this manner may better aid in searching HMC and to assist in subsequent codification as new ordinances are added.

Vacant titles, chapters, or sections may be designed for future use and may be marked "Reserved" to ease internal expansion. The legislative history identifies the specific legal sources of a section as may be provided in footnotes.

HMC is supplemented from time to time with amendments and additions made by the Honeyville City, Utah. The specific legal sources that comprise this Municipal Code have been adapted during the ongoing codification process from the original formatting of the official hard copy. In the event of a discrepancies between HMC and the official hard copy, the official hard copy governs. Municipal Code Online, Inc., provides a searchable database of the Municipal Code for easy reference and convenience.

NOTICE: THE MUNICIPAL CODE MAY NOT REFLECT OTHER RULES PROMULGATED UNDER THE AUTHORITY OF THE CODE, INCLUDING OTHER REGULATIONS AND TECHNICAL SPECIFICATION. THE MUNICIPAL CODE MAY NOT REFLECT ALL OR THE MOST CURRENT VERSION OF LEGISLATION ADOPTED BY THE CITY COUNCIL THAT HAS YET TO BE UPDATED ONLINE. FOR MORE INFORMATION CONTACT THE CITY OFFICE AT 435-279-8425 AND/OR honeyvillecity@frontiernet.net

Title 1 - ADMINISTRATION

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Chapter 2: SAVING CLAUSE

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Chapter 5: OFFICIAL AND CORPORATE PROVISIONS

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Chapter 1: OFFICIAL CITY CODE

1-1-1: TITLE

1-1-2: ACCEPTANCE

1-1-3: AMENDMENTS

1-1-4: CODE ALTERATIONS

1-1-5: INCORPORATION OF STATUTES

1-1-1: TITLE

Upon the adoption by the city council, this city code is hereby declared to be and shall hereafter constitute the official city code of Honeyville City. This city code of ordinances shall be known and cited as the HONEYVILLE CITY CODE 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 section [1-1-3](#) of this chapter. 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 penalty clause relating thereto, as well as to the section itself, when reference is made to this city code by title in any legal documents.

Adopted by Ord. 1976 Code § 1-001 on 1/1/1976

Amended by Ord. 2001 Code on 1/1/2001

1-1-2: ACCEPTANCE

This city code, as hereby presented in printed form, shall hereafter be received without further proof in all courts and in administrative tribunals of this state as the ordinances of the city of general and permanent effect, except the excluded ordinances enumerated in section [1-2-1](#) of this title.

Adopted by Ord. 2001 Code on 1/1/2001

1-1-3: AMENDMENTS

Any ordinance amending the city 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 city code. All such amendments or revisions by ordinance shall be immediately forwarded to the codifiers, and the said ordinance material shall be prepared for insertion in its proper place in each copy of this city code. Each such replacement page shall be properly identified and shall be inserted in each individual copy of the city code.

Adopted by Ord. 2001 Code on 1/1/2001

1-1-4: CODE ALTERATIONS

It shall be deemed unlawful for any person to alter, change, replace or deface in any way any section or any page of this city code in such a manner that the meaning of any phrase or order may be changed or omitted. Replacement pages may be inserted according to the official instructions 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.

Adopted by Ord. 2001 Code on 1/1/2001

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 citation or statute part of this code unless the provisions of this code specifically include, incorporate or make the citation or statute part of this code by reference or incorporation, and any such reference or citation not specifically included or incorporated may be changed, amended or deleted without publication upon an order of the city council.

Adopted by Ord. 1976 Code § 1-009 on 1/1/1976

Chapter 2: SAVING CLAUSE

1-2-1: REPEAL OF GENERAL ORDINANCES

1-2-2: PUBLIC WAYS AND PUBLIC UTILITY ORDINANCES

1-2-3: COURT PROCEEDINGS

1-2-4: SEVERABILITY CLAUSE

1-2-1: REPEAL OF GENERAL ORDINANCES

- A. Repealer; Exceptions: All general ordinances of the city passed prior to the adoption of this city code are hereby repealed, except such as are included in this city 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.

*Adopted by Ord. 1976 Code § 1-002 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

1-2-2: PUBLIC WAYS AND PUBLIC UTILITY ORDINANCES

No ordinance relating to railroad crossings with streets and other public ways, or relating to the conduct, duties, service or rates of public utilities shall be repealed by virtue of the adoption of this city code or by virtue of the preceding section, excepting as the city code may contain provisions for such matters, in which case, this city code shall be considered as amending such ordinance or ordinances in respect to such provisions only.

Adopted by Ord. 1976 Code § 1-003 on 1/1/1976

1-2-3: COURT PROCEEDINGS

- A. Prior Acts: No new ordinance shall be construed 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 construed 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 this 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 city code.

Adopted by Ord. 2001 Code on 1/1/2001

1-2-4: SEVERABILITY CLAUSE

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this city 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.

*Adopted by Ord. 1976 Code § 1-007 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

Chapter 3: DEFINITIONS OF ADMINISTRATION

1-3-1: CONSTRUCTION OF WORDS

1-3-2: DEFINITIONS, GENERAL

1-3-3: CATCHLINES

1-3-1: CONSTRUCTION OF WORDS

- A. Whenever any word in any section of this city code importing the plural number is used in describing or referring to any matters, parties or persons, any single matter, party or person shall be deemed to be included, although distributive words may not have been used. When any subject matter, party or person is referred to in this city code by words importing the singular number only, or a particular gender, several matters, parties or persons and the opposite gender and bodies corporate shall be deemed to be included; provided, that these rules of construction shall not be applied to any section of this city code which contains any express provision excluding such construction or where the subject matter or context may be repugnant thereto. The use of any verb in the present tense shall include the future and past tense when applicable.
- B. All words and phrases shall be constructed and understood according to the common use and understanding of the language; the technical words and phrases and such other words and phrases as may have acquired a particular meaning in law shall be construed and understood according to such particular meaning.
- C. The word "ordinance" contained in the ordinances of the city has been changed in the content of this city code to "title", "chapter", "section" and/or "subsection", or words of like import for organizational and clarification purposes only. Such change to the city's ordinances is not meant to amend passage and effective dates of such original ordinances.

*Adopted by Ord. 1976 Code § 1-005A on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

1-3-2: DEFINITIONS, GENERAL

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:

AGENT: A person acting on behalf of another with authority conferred, either expressly or by implication.

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.

CITY: The city of Honeyville, Box Elder County, Utah.

CITY COUNCIL: Unless otherwise indicated, the city council of the city of Honeyville, Utah.

CITY RECORDER: The individual appointed to act as the city recorder of the city.

CODE: The city code of the city of Honeyville, Utah.

COUNTY: Box Elder County, Utah.

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 the city of Honeyville".

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

GENDER: A word importing either the masculine or feminine gender only shall extend and be applied to the other gender and to persons.

HIGHWAY; ROAD: Includes public bridges, and may be equivalent to the words "county way", "county road", "common road" and "state road".

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

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 this city.

NUISANCE: 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 or persons within the community.

OCCUPANT OR TENANT: As applied to a building or land, shall include any person who occupies the whole or any part of such building or land whether alone or with others.

OFFENSE: Any act forbidden by any provision of this code or the omission of any act required by the provisions of this code.

OFFICERS OR OFFICIALS: 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 or official by title only, this shall be construed as though followed by the words "of the city of Honeyville".

OPERATOR: The person who is in charge of any operation, business or profession.

OWNER: As applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or lessee of the whole or of a part of such building or land.

PERSON: Any public or private corporation, firm, partnership, association, organization, government or any other group acting as a unit, as well as a natural person.

PERSONAL PROPERTY: Shall include 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.

PROPERTY: Includes both real and personal property.

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.

RETAILER: 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: The privilege of the immediate use of the roadway or other property.

STATE: The state of Utah.

STREET: Includes alleys, lanes, courts, boulevards, public ways, public squares, public places, sidewalks, gutters and culverts, crosswalks and intersections.

TENANT OR OCCUPANT: As applied to a building or land, shall include any person who occupies the whole or any part of such building or land, whether alone or with others.

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 by 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. When time is expressed in hours, Sunday and all legal holidays shall be excluded.

WEEK: Shall be construed to mean any seven (7) day period.

WHOLESALE: The terms "wholesaler" and "wholesale dealer" as used in this code, unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles or things to persons who purchase for the purpose of resale.

WRITTEN, IN WRITING: 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.

1-3-3: CATCHLINES

The catchlines of the several sections of the city 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 reenacted.

Chapter 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 may provide a penalty for the violation of any city ordinance by a fine not to exceed the maximum Class B misdemeanor fine under Utah Code Annotated section 76-3-301, or by a term of imprisonment up to six (6) 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 (6) months;
 - 2. In the case of a Class C misdemeanor, for a term not exceeding ninety (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. Class B Misdemeanor: One thousand dollars (\$1,000.00) when the conviction is of a Class B misdemeanor conviction; and
 - 2. Class C Misdemeanor; Infraction: Seven hundred fifty dollars (\$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 this city has jurisdiction, for which no special corporate fine is specified, shall be to pay an amount fixed by the court, not exceeding:
 - 1. Class B Misdemeanor: Five thousand dollars (\$5,000.00) when the conviction is for a Class B misdemeanor conviction; and
 - 2. Class C Misdemeanor; Infraction: One thousand dollars (\$1,000.00) when the conviction is for a Class C misdemeanor conviction or for an infraction conviction.

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 this 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 (2) 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 this city when no other specification as to punishment or category is made, is a Class B misdemeanor.
- D. Infractions:
 - 1. Infractions are not classified.
 - 2. Any offense which is made an infraction in this code or other ordinances of this city, or which is expressly designated an infraction and any offense designated by this code or other ordinances of this 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.

Chapter 5: OFFICIAL AND CORPORATE PROVISIONS

1-5-1: CORPORATE SEAL

1-5-1: CORPORATE SEAL

The official corporate seal of the city shall contain two (2) circles with the following device:

Within the inner circle, the words:

"Corporate Seal, Incorporated July 8, 1911"

On the outside of the inner circle and within the outer circle shall contain the words:

"City of Honeyville, Box Elder County, Utah".

Adopted by Ord. 1976 Code § 1-010 on 1/1/1976

Amended by Ord. 2001 Code on 1/1/2001

Chapter 6: MAYOR AND CITY COUNCIL

1-6-1: ELIGIBILITY AND RESIDENCY REQUIREMENTS

1-6-2: MEMBERSHIP; TERMS

1-6-3: MAYOR AS MEMBER OF CITY COUNCIL

1-6-4: MEETINGS; PROCEDURE AND CONDUCT

1-6-5: ORDINANCES AND RESOLUTIONS; PROCEDURES

1-6-1: ELIGIBILITY AND RESIDENCY REQUIREMENTS

- A. Declaration Of Candidacy: A person filing a declaration of candidacy for a city office shall:
 - 1. Have been a resident of the city for at least one year immediately before the date of the election; and
 - 2. Meet the other requirements of Utah Code Annotated section 20A-9-203.
- B. Annexed Areas: A person living in an area annexed to the city meets the residency requirement of this section if that person resided within the area annexed to the city for at least one year before the date of the election.
- C. Registered Voter: Any person elected to city office shall be a registered voter in the city.
- D. Residency Maintained: Each elected officer of the city shall maintain residency within the boundaries of the city during his term of office.
- E. Residence Outside City: If an elected officer of the city establishes his principal place of residence as provided in Utah Code Annotated section 20A-2-105 outside of the city during his term of office, the office is automatically vacant.
- F. Continuous Absence From City: If an elected city officer is absent from the city any time during his term of office for a continuous period of more than sixty (60) days without the consent of the city council, the city office is automatically vacant.

Adopted by Ord. 1976 Code § 3-210 on 1/1/1976

Amended by Ord. 2001 Code on 1/1/2001

1-6-2: MEMBERSHIP; TERMS

- A. Composition: The city council shall be a council of six (6) persons, one of whom shall be the mayor and the remaining five (5) shall be council members.
- B. Election; Terms: The election and terms of office of the officers shall be as follows:
 - 1. The offices of mayor and two (2) council members shall be filled in a municipal election held in 1977. The terms shall be for four (4) years. These offices shall be filled every four (4) years in municipal elections.
 - 2. The offices of the other three (3) council members shall be filled in a municipal election held in 1979. The terms shall be for four (4) years. These offices shall be filled every four (4) years in municipal elections.
 - 3. The offices shall be filled in at-large elections which shall be held at the time and the manner provided for electing municipal officers.
- C. Vacancy In Office: Mayor or city council vacancies shall be filled as provided in Utah Code Annotated section 20A-1-510.

Adopted by Ord. 1976 Code §§ 3-221, 3-222 on 1/1/1976

Amended by Ord. 2001 Code on 1/1/2001

1-6-3: MAYOR AS MEMBER OF CITY COUNCIL

- A. Administration Vested In Mayor: The administrative powers, authority and duties are vested in the mayor.
- B. Presiding Officer; Mayor Pro Tempore: The mayor shall be the chairperson and preside at the meetings of the city council. In the absence of the mayor or because of his inability or refusal to act, the city council may elect a member of the city council to preside over the meeting as mayor pro tempore, who shall have all the powers and duties of the mayor during his absence or disability. The election of a mayor pro tempore shall be entered in the minutes of the meeting.
- C. Voting; No Vote Except In Tie: The mayor shall not vote, except in the case of a tie vote of the city council.
- D. Powers And Duties: The mayor shall be the chief executive and administrator of the city and shall:
 - 1. Appoint Officers: Appoint, with the concurrence of the city council, all officers of the city;
 - 2. Supervise: Supervise all appointed officials and employees;
 - 3. Recommend Position Changes: Recommend to the city council any change in position of any person requiring the concurrence or action of the city council;
 - 4. Inspect Books And Records: Inspect all books and records pertaining to city affairs kept by any officer, employee or former officer or employee of the city at any reasonable time;
 - 5. Settle Disputes: Whenever there is a dispute as to the respective duties or powers of any appointed officer of the city, the dispute shall be settled by the mayor, who may confer with the city attorney; and the mayor shall have the power to delegate to any appointed officer any duty which is to be performed when no specific officer has been directed to perform that duty, subject to the consent of the city council at its next regular meeting;
 - 6. Designate Persons For Temporary Assignments: Temporarily designate himself or any other person to perform the duties of any office or position of the city which is vacant or which is not properly administered due to the absence or disability of the person appointed to that office or position;
 - 7. Reports To City Council: Prepare and present to the city council such reports as are required by law and such other reports as are requested by the city council;
 - 8. Other Required Duties: Perform such other duties as may be required by statute or ordinance.

E. No Veto: The mayor shall have no power to veto any act of the city council, unless otherwise specifically authorized by statute.

Adopted by Ord. 1976 Code §§ 3-511, 3-512 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001

1-6-4: MEETINGS; PROCEDURE AND CONDUCT

A. Regular Meetings: The city council shall conduct regular meetings which shall be held on the second Wednesday of each month at city hall in the council room located at 2635 West 6980 North, Honeyville, Utah, which meetings shall begin promptly at seven o'clock (7:00) P.M. during mountain standard time and at seven o'clock (7:00) P.M. during mountain daylight time, but if the meeting date is a legal holiday, then the meeting shall be held at the same time and place above described on the day one week before the legal holiday.

B. Special Meetings:

1. If at any time the business of the city requires a special meeting of the city council, such meeting may be ordered by the mayor or any two (2) members of the city council. The order shall be entered in the minutes of the city council. The order shall provide at least three (3) hours' notice of the special meeting and notice thereof shall be served by the city recorder on each member who did not sign the order by delivering the notice personally or by leaving it at the member's usual place of abode. The personal appearance by a council member at any specially called meeting constitutes a waiver of the notice required in this subsection.
2. The written notice required in subsection B1 of this section shall state the time and place the special meeting is to be held and the purpose for which the special meeting is being called.

C. Open Meetings; Exceptions: Every meeting is open to the public, unless closed pursuant to Utah Code Annotated sections 52-4-4 and 52-4-5.

D. Quorum:

1. Defined: The number of members of the city council necessary to constitute a quorum is three (3) or more.
2. Necessary: No action of the city council shall be official or of any effect, except when a quorum of the members are present. Fewer than a quorum may adjourn from time to time.
3. Compelling Attendance: A quorum or fewer than a quorum of the city council may, at any regularly held meeting, compel the attendance of absent members and direct the city's law enforcement agency to bring the absent member to the meeting on an order signed by a majority of the members present; provided, that, the city's law enforcement agency shall not use force to compel the attendance of such absent member.

E. Voting:

1. How Vote Taken: A roll call vote shall be taken and recorded for all ordinances, resolutions and any action which would create a liability against the city and in any other case at the request of any member of the city council by a "yes" or a "no" vote and shall be recorded. The city recorder shall call the roll in alphabetical order. Every resolution or ordinance shall be in writing before the vote is taken.
2. Minimum Vote Required: The minimum number of votes required to pass any ordinance, resolution or to take any action by the city council, unless otherwise prescribed by law, shall be a majority of the members of the quorum, but shall never be less than three (3).
 - a. Any ordinance, resolution or motion of the city council having fewer favorable votes than required herein shall be deemed defeated and invalid, except a meeting may be adjourned to a specific time by a majority vote of the city council even though such majority vote is less than that required herein.
 - b. A majority of the members of the city council, regardless of number, may fill any vacancy in the city council.
3. Reconsideration: Any action taken by the city council shall not be reconsidered or rescinded at any special meeting unless the number of members of the city council present at the special meeting is equal to or greater than the number of members present at the meeting when the action was approved.

F. Record Of Proceedings: The city recorder shall keep a record of the proceedings of the meetings of the city council, except that minutes of closed meetings shall not be available to the public until such time as the city council shall make them public or by an order of court.

G. Conduct; Order Of Business:

1. Rules Of Procedure: Except as otherwise specifically required or provided by law, this code or by resolution of the city council, the most current edition of Robert's Rules of Order shall govern the procedure and conduct of the meetings of the city council.
2. Agenda: All reports, communications, ordinances, resolutions, contract documents or other matters to be submitted to the city council shall be delivered to the city recorder at least forty eight (48) hours prior to each city council meeting, whereupon the city recorder shall immediately arrange a list of such matters according to the order of business and furnish each member of the city council, and when present, the city attorney, with a copy of the same prior to the city council meeting and as far in advance of the meeting as time for preparation will permit. Only the foregoing matters shall be presented to the city council by administrative officials, except those of an urgent nature; provided, that the city council may, by motion, waive the requirements of this subsection.
3. Order Of Business:
 - a. At the time and place set for each meeting of the members of the city council, the business of the city shall be taken up for consideration and disposition of the following business, unless otherwise provided by motion of the city council:
 - (1) Roll call.
 - (2) Reading of minutes of previous meeting.
 - (3) Approval of minutes of previous meeting.
 - (4) Petitions, remonstrances and communications.
 - (5) Introduction and adoption of resolutions and ordinances.
 - (6) Report of officers, boards and committees.
 - (7) Unfinished business.
 - (8) New business.
 - (9) Miscellaneous.
 - (10) Appropriations.
 - (11) Adjournment.
 - b. The city council may by motion change, amend or delete any agenda item provided for in this subsection.
4. Action On Committee Reports: Final action on any report of any committee appointed by the city council shall be deferred to the next regular meeting of the city council on the request of any two (2) members, except that the city council may call a special meeting to consider final action.
5. Discipline Of Members: The city council may fine or expel any member for disorderly conduct on a two-thirds ($\frac{2}{3}$) vote of the members of the city council.

1-6-5: ORDINANCES AND RESOLUTIONS; PROCEDURES

- A. **Power Exercised By Ordinance:** The city council may pass any ordinance to regulate, require, prohibit, govern, control or supervise any activity, business, conduct or condition authorized by statute or any other provision of law. An officer of the city shall not be convicted of a criminal offense where he relied on or enforced an ordinance he reasonably believed to be a valid ordinance. It shall be a defense to any action for punitive damages that the official acted in good faith in enforcing an ordinance or that he enforced an ordinance on advice of legal counsel.
- B. **Penalty For Violation:** Unless otherwise specifically authorized by statute, the city council may provide a penalty for the violation of any city ordinance by a fine not to exceed the maximum Class B misdemeanor fine under Utah Code Annotated section 76-3-301 or by a term of imprisonment up to six (6) 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.
- C. **Form Of Ordinance:** Any ordinance passed by the city council shall contain and be in substantially the following order and form:
1. A number;
 2. A title which indicates the nature of the subject matter of the ordinance;
 3. A preamble which states the need or reason for the ordinance;
 4. An ordaining clause which states "Be it ordained by the city of Honeyville:";
 5. The body or subject of the ordinance;
 6. When applicable, a statement indicating the penalty for violation of the ordinance or a reference that the punishment is covered by an ordinance which prescribes the fines and terms of imprisonment for the violation of the city ordinance; or, the penalty may establish a classification of penalties and refer to such ordinance in which the penalty for such violation is established;
 7. A statement indicating the effective date of the ordinance or the date when the ordinance shall become effective after publication or posting as required by this section;
 8. A line for the signature of the mayor or mayor pro tem to sign the ordinance; and
 9. A place for the city recorder to attest the ordinance and affix the seal of the city.
- D. **Requirements As To Form; Effective Date:**
1. Ordinances passed or enacted by the city council shall be signed by the mayor, or if he is absent, by the mayor pro tempore, or by a quorum of the city council, and shall be recorded before taking effect. No ordinance shall be void or unlawful by reason of its failure to conform to the provisions of Utah Code Annotated section 10-3-704(1) through 10-3-704(4).
 2. Ordinances shall become effective twenty (20) days after publication or posting or thirty (30) days after final passage by the city council, whichever is closer to the date of final passage, but ordinances may become effective at an earlier or later date after publication or posting if so provided in the ordinance.
 3. Ordinances which do not have an effective date shall become effective twenty (20) days after publication or posting, or thirty (30) days after final passage by the city council, whichever is sooner.
- E. **Publication And Posting Of Ordinances:** All ordinances, except those enacted pursuant to Utah Code Annotated sections 10-3-706 to 10-3-710, before taking effect shall be deposited in the office of the city recorder and a short summary of the ordinance published at least once in a newspaper published within the city, or if there is no newspaper published therein, then by posting complete copies in three (3) public places within the city. Any ordinance, code or book, other than the state code, relating to building or safety standards, city functions, administration, control or regulations, may be adopted and shall take effect without further publication or posting, if reference is made to the code or book and at least three (3) copies have been filed for use and examination by the public in the office of the city recorder prior to the adoption of the ordinance by the city council. Any state law relating to building or safety standards, city functions, administration, control or regulations, may be adopted and shall take effect without further publication or posting if reference is made to the state code. The ordinance adopting the code or book shall be published in the manner provided in Utah Code Annotated sections 10-3-709 and 10-3-710.
- F. **Recording; Numbering; Certification Of Passage:** The city recorder shall record, in a book used exclusively for that purpose, all ordinances passed by the city council. The city recorder shall give each ordinance a number, if the city council has not already so done. Immediately following each ordinance, or codification of ordinances, the city recorder shall make or cause to be made a certificate stating the date of passage and of the date of publication or posting, as required. The record and memorandum, or a certified copy thereof, shall be prima facie evidence of the contents, passage and publication or posting of the ordinance or codification.
- G. **Resolutions:**
1. **Purpose; Limited Scope:** Unless otherwise required by law, the city council may exercise all administrative powers by resolution, including, but not limited to: a) establishing water and sewer rates; b) charges for garbage collection and fees charged for city services; c) establishing personnel policies and guidelines; and d) regulating the use and operation of the city property. Punishment, fines or forfeitures may not be imposed by resolution.
 2. **Form:** Any resolution passed by the city council shall be in a form and contain sections substantially similar to that prescribed for ordinances.
 3. **Publication; Effective Date:** Resolutions may become effective without publication or posting and may take effect on passage or at a later date as the city council may determine, but resolutions may not become effective more than three (3) months from the date of passage.

Chapter 7: OFFICERS AND EMPLOYEES

- 1-7-1: CREATING OFFICES; FILLING VACANCIES
- 1-7-2: CITY RECORDER AND CITY TREASURER
- 1-7-3: BONDS OF OFFICERS
- 1-7-4: OATH OF OFFICE
- 1-7-5: DUTIES OF ALL OFFICERS
- 1-7-6: COMPENSATION
- 1-7-7: EXPENSES; CLAIM FOR REIMBURSEMENT
- 1-7-8: PRIVATE WORK PROHIBITED
- 1-7-9: SUPERVISION BY MAYOR

1-7-1: CREATING OFFICES; FILLING VACANCIES

- A. **Offices Created By Council:** The city council may create any office deemed necessary for the government of the city and provide for filling

vacancies in elective and appointive offices.

- B. Mayor To Appoint And Fill Vacancies: The mayor, with the advice and consent of the city council, may appoint and fill vacancies in all offices provided for by law or ordinance.
- C. Continuation In Office: All appointed officers shall continue in office until their successors are appointed and qualified.

Adopted by Ord. 2001 Code on 1/1/2001

1-7-2: CITY RECORDER AND CITY TREASURER

- A. Appointment: On or before the first Monday in February following a city election, the mayor, with the advice and consent of the city council, shall appoint a qualified person to each of the offices of city recorder and city treasurer.
- B. Ex Officio Auditor: The city recorder is ex officio city auditor and shall perform the duties of that office.

Adopted by Ord. 1976 Code § 3-611 on 1/1/1976

Amended by Ord. 2001 Code on 1/1/2001

1-7-3: BONDS OF OFFICERS

- A. Approval Of Bonds: The bonds of the council members shall be approved by the mayor and the bond of the mayor shall be approved by the city council at the first meeting of the city council in January following a city election.
- B. Premium Paid By City: The premium charged by a corporate surety for any bond required by the city shall be paid by the city.
- C. Additional Bonds; Filing: The city council may at any time require further and additional bonds of any or all officers elected or appointed. All bonds given by the officers, except as otherwise provided by law, shall be filed with the city recorder, except that the bond of the city recorder shall be filed with the city treasurer.
- D. Bond Amounts: Before taking the oath of office and entering on the duties of their respective office, the following named city officials shall each give a bond with good and sufficient securities, payable to the city, conditioned for the faithful performance of the duties of their office and the payment of all monies received by such officers according to law and the ordinances of the city, in the following amounts:

Mayor	\$1,200.00
Council members	600.00
City treasurer	Set by resolution
City recorder	Set by resolution

- E. Treasurer's Bond: The city treasurer's bond shall be superseded by any rule, regulation or directive of the State Money Management Council when such rule, regulation or directive is binding on the city.
- F. Blanket Bond: The bond required in this section may be a blanket bond.

Adopted by Ord. 1976 Code § 3-521 on 1/1/1976

Amended by Ord. 2001 Code on 1/1/2001

1-7-4: OATH OF OFFICE

- A. Constitutional Oath Of Office: All officers, whether elected or appointed, before entering on the duties of their respective offices shall take, subscribe and file the constitutional oath of office. The form of oath shall be as provided in the Utah Constitution article IV, section 10.
- B. Filing: The oath of office required under this section shall be administered by any judge, notary public or by the city recorder. Elected officials shall take their oath of office at twelve o'clock (12:00) noon on the first Monday in January following their election or as soon thereafter as is practical. Appointed officers shall take their oath at any time before entering on their duties. All oaths of office shall be filed with the city recorder.
- C. Acts Of Officials Not Voided: No official act of any city officer shall be invalid for the reason that he failed to take the oath of office.

Adopted by Ord. 1976 Code §§ 3-531, 3-532 on 1/1/1976

Amended by Ord. 2001 Code on 1/1/2001

1-7-5: DUTIES OF ALL OFFICERS

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

- A. Records To Successor: Deliver to their successor within one week after the change of office all records, documents and property which belong to the city.
- B. Deliver Funds To Treasurer: Deliver to the city treasurer within one week 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 him which require his signature.
- D. Perform Duties Imposed: Perform all duties imposed by him by virtue of the office held.
- E. Issue Receipts: Give receipts on forms provided by the city recorder for all sums of money received, collected or paid them or their assistants.

Adopted by Ord. 1976 Code § 3-361 on 1/1/1976

1-7-6: COMPENSATION

- A. Specified: The salary of the officers and employees of the city shall be paid in the amount and at such times as is established by the city council.
- B. Benefits: In addition to the salary paid the officers and employees of the city, they shall receive the following benefits:
 - 1. The employees' share of the social security tax.
 - 2. Health and accident insurance for themselves and their families on such basis and cost to the employee or officer as the city council may from time to time establish by resolution.
 - 3. Vacation and sick leave on such basis as the city council may from time to time establish by resolution.
 - 4. Participation in the Utah State Retirement Program on such basis and cost as the city council may from time to time establish by resolution.
- C. Elected Officials Performing Additional Duties:
 - 1. Request For Payment: Any elected official who is called upon to perform a work assignment within the city limits and said work takes more than one hour to perform, said official may, with approval of the mayor, submit a request for payment for hours worked.
 - 2. Submission: Requested payment will be submitted to the city recorder on time sheets and in accordance with pay schedules being used for

- other city employees within the same department.
3. Mileage And Per Diem: Each member of the city council shall be eligible to receive mileage and per diem expenses for all trips approved by the city council according to the schedules adopted by the Utah Department of Finance.
 4. Contact Qualified Employee First: A city employee who is qualified should be contacted first to perform the required work. If he is not available, the mayor has the discretion to ask an official to perform the work.

Adopted by Ord. 1976 Code § 3-551 on 1/1/1976

Amended by Ord. 91-2 on 1/15/1991

Amended by Ord. 2001 Code on 1/1/2001

1-7-7: EXPENSES; CLAIM FOR REIMBURSEMENT

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 Utah 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 by the city council.

Adopted by Ord. 1976 Code § 3-554 on 1/1/1976

1-7-8: PRIVATE WORK PROHIBITED

It shall be unlawful for any employee of the city to authorize or render services or city equipment for use on any private person's property and which is a benefit to such private person, including snow removal, sewer or water line repair or transporting garbage.

Adopted by Ord. 2001 Code on 1/1/2001

1-7-9: SUPERVISION BY MAYOR

The mayor shall supervise the official conduct of all officers of the city and investigate or cause to be investigated and present any complaint to the city council, together with the results of the investigation, at the next regular meeting of the city council after the complaint is received by him.

Adopted by Ord. 1976 Code § 3-623 on 1/1/1976

Chapter 8: MUNICIPAL ELECTIONS

1-8-1: CONDUCT

1-8-2: PRIMARY ELECTION

1-8-1: CONDUCT

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

Adopted by Ord. 95-1 on 4/3/1995

1-8-2: PRIMARY ELECTION

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

Adopted by Ord. 95-1 on 4/3/1995

Chapter 9: ADMINISTRATIVE HEARINGS

1-9-1: REQUEST

1-9-2: FORM OF REQUEST

1-9-3: PROCEDURE

1-9-4: NOT ADDITIONAL REMEDY

1-9-1: REQUEST

Unless otherwise specifically provided in any ordinance of the city or any code adopted by reference, a hearing before the city council may be requested by any person:

- A. Who is denied or refused a permit or license by any officer, agent or employee of this city.
- B. Whose permit or license is revoked, restricted, qualified or limited from that for which it was first issued.

Adopted by Ord. 1976 Code § 1-411 on 1/1/1976

1-9-2: FORM OF REQUEST

The request for hearing must be made in writing to the mayor or city recorder and made within thirty (30) days following the date notice denying, refusing, revoking, qualifying or restricting the license or permit is mailed by the city to the applicant or license holder at his address as it appears on the application or license.

Adopted by Ord. 1976 Code § 4-412 on 1/1/1976

1-9-3: PROCEDURE

- A. Time And Place: Following receipt of a request for hearing, the city council shall inform the person requesting a hearing of the time and place the hearing is to be held.
- B. Witnesses; Evidence: 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 his own evidence in support of his contention.
- C. Decision Of City Council: The city council shall, within ten (10) days following the conclusion of the hearing, in writing, inform the person who requested the hearing of the decision of the city council.

Adopted by Ord. 1976 Code § 1-413 on 1/1/1976

1-9-4: NOT ADDITIONAL REMEDY

This chapter shall not be construed so as to afford any aggrieved party more than one hearing before the city council, nor shall the hearing provided in this chapter apply to any criminal complaint or proceeding.

Adopted by Ord. 1976 Code § 1-414 on 1/1/1976

Chapter 10: PUBLIC RECORDS

1-10-1: RECORDS ACCESS AND MANAGEMENT

1-10-1: RECORDS ACCESS AND MANAGEMENT

The city hereby adopts by reference the Government Records Access and Management Act, Utah Code Annotated section 63-2-101 et seq. The fee and retention schedules shall be as established by the city council and on file in the city office.

Adopted by Ord. 2001 Code on 1/1/2001

Title 3 - BUSINESS AND LICENSE REGULATIONS

Chapter 1: GENERAL LICENSE PROVISIONS

Chapter 2: LIQUOR CONTROL

Chapter 3: SALES AND USE TAX

Chapter 4: SEXUALLY ORIENTED BUSINESSES

Chapter 1: GENERAL LICENSE PROVISIONS

3-1-1: DEFINITIONS

3-1-2: LICENSE ASSESSOR AND COLLECTOR

3-1-3: BUSINESS LICENSE REQUIRED; PENALTY

3-1-4: APPLICATION FOR LICENSE

3-1-5: LICENSE FEE LEVIED

3-1-6: PAYMENT DATES

3-1-7: CERTIFICATE OF LICENSE

3-1-8: TRANSFER OF LICENSE PROHIBITED

3-1-9: BRANCH ESTABLISHMENTS

3-1-10: JOINT BUSINESS LICENSES

3-1-11: RECIPROCAL RECOGNITION; DELIVERY OF GOODS

3-1-12: EXEMPTIONS TO LICENSE

3-1-13: REVOCATION OR DENIAL OF LICENSE

3-1-1: DEFINITIONS

As used in this title:

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.

EACH SEPARATE PLACE OF BUSINESS: 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 either retail or wholesale, or both, in the city.

EMPLOYEE: 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 salesperson, agent or independent contractor engaged in the operation of the place of business in any capacity.

ENGAGING IN BUSINESS: 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 his employer under any contract of personal employment.

PLACE OF BUSINESS: Each separate location maintained or operated by the licensee within the city from which business activity is conducted or transacted.

WHOLESALE: 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.

WHOLESALE: 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.

Adopted by Ord. 1976 Code § 9-111 on 1/1/1976

Amended by Ord. 2001 Code on 1/1/2001

3-1-2: LICENSE ASSESSOR AND COLLECTOR

The city recorder is designated and appointed as ex officio assessor of license fees for the city. Upon receipt of any application for a license, the city recorder shall assess the amount due thereon and shall collect all license fees based upon the rate established by resolution. He shall enforce all provisions of this title, and shall cause to be filed complaints against all persons violating any of the provisions of this title.

Adopted by Ord. 1976 Code § 9-113 on 1/1/1976

Amended by Ord. 2001 Code on 1/1/2001

3-1-3: BUSINESS LICENSE REQUIRED; PENALTY

It shall be a Class B misdemeanor, subject to penalty as provided in section [1-4-1](#) of this code, 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.

Adopted by Ord. 1976 Code § 9-112 on 1/1/1976

Amended by Ord. 2001 Code on 1/1/2001

3-1-4: 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.

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.

Adopted by Ord. 1976 Code § 9-116 on 1/1/1976

3-1-5: LICENSE FEE LEVIED

- A. Imposed: There is hereby imposed and levied a business license fee as established by resolution of the city council.
- B. Interstate Commerce: None of the license fees provided for by this section shall be applied as to occasion an undue burden on interstate commerce. In any case, where a license fee is believed by a licensee or applicant for license to place an undue burden upon such commerce, he may apply to the license assessor and collector for an adjustment of the fee so that it shall not be discriminatory, unreasonable or unfair as to such commerce. Such application may be made before, at or within six (6) months after payment of the prescribed license fee. The applicant shall, by affidavit and supporting testimony, show his 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 he shall determine whether the fee fixed by this section is discriminatory, unreasonable or unfair as to applicant's business and shall recommend to the city council a license fee for the applicant in an amount that is nondiscriminatory, reasonable and fair, and if the city council is satisfied that such license fee is the amount that the applicant should pay, it shall fix the license fee in such amount. If the regular license fee has already been paid, the city council shall order a refund of the amount over and above the fee 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 assure that the fee assessed shall be uniform with that assessed on businesses of like nature.

Adopted by Ord. 1976 Code § 9-125 on 1/1/1976

Amended by Ord. 80-4 on 7/7/1980

Amended by Ord. 2001 Code on 1/1/2001

3-1-6: PAYMENT DATES

All 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.
- B. Due: Annual fees shall be due on January 1 of each calendar year and shall become delinquent if not paid by February 1 of each year.
- C. Issued After July 1: One-half ($\frac{1}{2}$) of the annual fee shall be payable for all licenses issued by the city pursuant to applications made after July 1 of each year, and licenses issued after July 1 shall expire on January 1 of the year following. Payment shall be due upon the date of application approval.
- D. Penalty For Late Payment: If any license fee is not paid within thirty (30) days of the due date, a penalty of ten percent (10%) of the amount of such license fee shall be added to the original amount thereof. No license shall be issued until all penalties legally assessed have been paid.

Adopted by Ord. 1976 Code §§ 9-114, 9-115 on 1/1/1976

Amended by Ord. 2001 Code on 1/1/2001

3-1-7: CERTIFICATE OF LICENSE

- A. Contents: All certificates of license shall be signed by the mayor, attested by the city recorder, and shall contain the following information:
 - 1. Name: The name of the person to whom such certificate has been issued.
 - 2. Amount: The amount paid.
 - 3. Type: The type of license and the class of such license, if licenses are divided into classes.
 - 4. Term: The term of the license with the commencing date and the date of its expiration.
 - 5. Location: The place where such business, calling, trade or profession is to be conducted.
- B. Display:
 - 1. Required: Every certificate of license issued under this chapter 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 his 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 was granted.
 - 2. 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.

Adopted by Ord. 1976 Code §§ 9-117, 9-118 on 1/1/1976

3-1-8: 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.

Adopted by Ord. 1976 Code § 9-119 on 1/1/1976

3-1-9: 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 chapter shall not be deemed to be separate places of business or branch establishments.

Adopted by Ord. 1976 Code § 9-121 on 1/1/1976

3-1-10: JOINT BUSINESS LICENSES

Whenever any person is engaged in two (2) 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 fee 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 beer or any other product or service requiring an additional license shall be subject to such additional licensing requirement. Where two (2) 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 fee for such business.

*Adopted by Ord. 1976 Code § 9-122 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

3-1-11: 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 chapter of any person whose only business activity in the city is the mere delivery in the city of property sold by him at a regular place of business maintained by him outside the city where:
 - 1. Such person's business is at the time of such delivery licensed by the Utah municipality or county in which such place of business is situated; and
 - 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; and
 - 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 by 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.

Adopted by Ord. 1976 Code § 9-123 on 1/1/1976

3-1-12: EXEMPTIONS TO LICENSE

- A. Exempt Businesses: No license fee shall be imposed under section [3-1-5](#) of this chapter on any person engaged in business for solely religious, charitable, eleemosynary or other types of strictly nonprofit purpose 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.

Adopted by Ord. 1976 Code § 9-124 on 1/1/1976

3-1-13: 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 city council 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 city council intends to revoke the business license or deny the application to renew, together with the reason or reasons therefor, at a regular or special meeting of the city council (which shall be at least 10 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 him, to cross-examine witnesses and to present evidence as to why the license should not be revoked or the application denied.

*Adopted by Ord. 1976 Code § 9-120 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

Chapter 2: LIQUOR CONTROL

- [3-2-1: STATE STATUTE ADOPTED](#)
- [3-2-2: APPLICATION FOR LICENSE AND RENEWAL LICENSE](#)
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3-2-1: STATE STATUTE ADOPTED

Except insofar as the application thereof is clearly impracticable 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 Alcoholic Beverage Control Act (Utah Code Annotated title 32A), 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 if proceeded hereunder.

Adopted by Ord. 2001 Code on 1/1/2001

3-2-2: APPLICATION FOR LICENSE AND RENEWAL LICENSE

- A. Verified: All applications for alcoholic beverage licenses authorized by this chapter shall be verified and shall be filed with the city recorder. The application must state the applicant's name in full, that he understands and has read and complied with the requirements, and that he possesses the qualifications specified in the Alcoholic Beverage Control Act and this chapter. If the applicant is a copartnership, the names and addresses of all partners, and if a corporation, the names and addresses of all officers and directors, must be stated.
- B. Subscribed: The application must be subscribed by the applicant who shall state under oath that the facts therein contained are true.
- C. Renewal: All applications for renewal licenses filed by the holders of existing licenses shall be filed with the city recorder at least thirty (30) days prior to the expiration date of the then issued license. Any person who fails to file such application within the time limit shall close his licensed premises on the expiration date of the then issued license and shall keep the premises closed for any and all business for the sale of alcoholic beverages until the date of his new license is issued by the city council.

Adopted by Ord. 2001 Code on 1/1/2001

3-2-3: FEES

- A. Annual Regulatory License Fee: In addition to any other business license fee which any person or place of business may be required to pay, there is hereby imposed on the business location of every person engaged in the sale or dispensing of alcoholic beverages an annual regulatory license fee. The amount of the annual regulatory fee will be set by resolution of the city council, according to the license classification.
- B. License Fee To Accompany Application: Applications provided for in this chapter shall be accompanied by the fees provided in this section. The fee shall be returned to the applicant if the application is denied.

Adopted by Ord. 2001 Code on 1/1/2001

3-2-4: REFERRAL TO PLANNING COMMISSION

All applications filed in accordance with the provisions of this chapter shall be referred to the planning commission for inspection and report. The planning commission shall, when possible, within fourteen (14) days after receiving such application make a report to the city council of the general reputation and character of the persons who habitually frequent such place; the nature and kind of business conducted at such place by the applicant, by any other person, or by the applicant at any other place; whether the place is or has been conducted in a lawful, quiet and orderly manner; the nature and kind of entertainment, if any, at such place; whether gambling is or has been permitted on the premises or by the applicant at any other place; and the proximity of such premises to any school, church, park or library. The planning commission shall also add to such report their recommendation as to whether or not the application should be granted.

Adopted by Ord. 2001 Code on 1/1/2001

3-2-5: BOND REQUIRED

- A. Compliance Bond: No regulatory license required by this chapter shall be granted by the city council until the applicant shall have filed a compliance bond with the city recorder, in an amount to be determined by the city council and established by resolution. The bond shall be made payable to the city, conditioned upon the licensee's faithful compliance with the Alcoholic Beverage Control Act and the ordinances of the city.
- B. Failure To Maintain Valid Bond: If the licensee fails to maintain a valid bond, payable to the city, the alcoholic beverage license shall be immediately suspended until such time as a valid bond is obtained. Failure to obtain a bond within thirty (30) days of notification by the city of the delinquency shall result in the automatic revocation of the city alcoholic beverage license.
- C. Withdrawal Of Bond Restricted: No part of the bond may be withdrawn until the alcoholic beverage license has been in effect for a period of at least five (5) years, after which time the city may elect to waive continuance of the bond, if it is determined that the licensee has demonstrated faithful compliance with the laws of the state and the ordinances of the city. Persons who have been granted and maintained a city beer license for at least three (3) years prior to the passage of the ordinance codified in this chapter, and who have subsequently demonstrated faithful compliance with the laws of the state and city ordinances, shall be exempted from the bond requirement unless the license has been allowed to expire.

Adopted by Ord. 2001 Code on 1/1/2001

3-2-6: DEPARTMENT OF HEALTH PERMIT

No license under this chapter shall be issued until the applicant therefor shall have first procured from the applicable health department a permit which shall show that the premises to be licensed is in a sanitary condition and that the equipment used in the storage, distribution or sale of alcoholic beverages complies with all the health regulations of the city and the state.

Adopted by Ord. 2001 Code on 1/1/2001

3-2-7: ALCOHOL TRAINING AND EDUCATION

- A. Required: No person shall be granted a license to operate or maintain a trade, profession or calling, the transaction or carrying on of which requires a license, within the city, if such person operates an establishment which, as part of its business, serves alcoholic beverages, as defined in Utah Code Annotated section 32A-1-105(2), to the public for consumption on the premises, unless that person shall show by certificate granted by the Utah Department of Alcoholic Beverage Control, or by adequate proof of the existence of such certificate, that each employee of the business engaging in the serving, selling or furnishing of such alcohol on the premises has completed the alcohol training and education seminar, as required in Utah Code Annotated section 62A-8-403.
- B. New Employees: Every new employee hired after the licensee has been licensed in compliance with subsection A of this section, who is required to complete this seminar, shall complete the seminar within six (6) months of commencing employment. Violation of this section will result in revocation of the license granted, unless compliance is completed within two (2) months of the time that licensee first became aware that such violation occurred.

3-2-8: CLASSIFICATIONS OF LICENSES

Retail alcoholic beverage licenses shall be of the following kinds, shall carry the following privileges, and shall be known as: Class A beer, Class B beer, Class C beer and liquor consumption, and temporary beer.

- A. Class A Beer License: Class A beer retail licenses shall entitle the licensee to sell beer on the premises, in original sealed containers no larger than two (2) liters, for consumption off the premises, in accordance with the ordinances of the city, provided beer is not sold by minors except under the supervision of a person twenty one (21) years of age or older who is on the premises.
- B. Class B Beer License: Class B beer retail licenses shall entitle the licensee to sell beer in the original containers, and on draft, in containers no larger than two (2) liters, for on-premises consumption; beer in sealed containers no larger than two (2) liters may be sold for consumption off-premises in accordance with the Alcoholic Beverage Control Act, and the ordinances of the city.
- C. Class C Beer And Liquor Consumption License: Class C beer and liquor consumption licenses shall entitle restaurant and private club licensees to sell liquor and beer for consumption on the premises, and to sell beer in sealed containers no larger than two (2) liters, for off-premises consumption, as specifically defined in, and in accordance with the Alcoholic Beverage Control Act.
- D. Temporary Beer License: Temporary beer licenses, for sale or dispensing of beer, may be issued for a period of time not to exceed thirty (30) days, and in accordance with the ordinances of the city.

Adopted by Ord. 2001 Code on 1/1/2001

3-2-9: PURCHASE OF ALCOHOLIC BEVERAGES FOR RESALE

It is a Class B misdemeanor and subject to penalty as provided in section [1-4-1](#) of this code for any licensee to purchase or acquire, or to have or possess for the purpose of sale or distribution, any alcoholic beverage except that which he shall have lawfully purchased, as defined in the Alcoholic Beverage Control Act.

Adopted by Ord. 2001 Code on 1/1/2001

3-2-10: SEPARATE LICENSE FOR EACH PLACE OF BUSINESS; DISPLAY

A separate license shall be required for each place of sale and the license shall at all times be conspicuously displayed in the place to which it shall refer or for which it shall be issued. All licensees shall comply with the Alcoholic Beverage Control Act and the regulations of the Alcoholic Beverage Control Commission.

Adopted by Ord. 2001 Code on 1/1/2001

3-2-11: LICENSE NOT TRANSFERABLE

Licenses issued pursuant to this chapter shall not be transferrable, and if revoked by the city council, the fee paid by the licensee to the city for the license shall be forfeited to the city.

Adopted by Ord. 2001 Code on 1/1/2001

3-2-12: RESTRICTIONS

The following restrictions shall apply to all establishments within the city where alcoholic beverages are sold:

- A. Location Of Business; Exception; Variance:
 1. No Class B, Class C or temporary alcoholic beverage license shall be granted to a business located within six hundred feet (600') of any public or private school, church, public library, public playground or park, measured from the nearest entrance of the outlet by following the shortest route of either ordinary pedestrian traffic or, where applicable, vehicular travel along public thoroughfares, whichever is the closer, to the property boundary of the public or private school, church, public library, public playground, school playground or park; and within two hundred feet (200') if measured in a straight line from the nearest entrance of the proposed outlet to the nearest property boundary of the public or private school, church, public library, public playground, school playground or park.
 2. No Class A alcoholic beverage licenses applied for after the passage date hereof, for sale of beer for off-premises consumption, shall be granted to any business located within six hundred feet (600') of any public or private school or church, measured from the nearest entrance of the outlet by following the shortest route of either ordinary pedestrian traffic or, where applicable, vehicular travel along public thoroughfares, whichever is the closer, to the property boundary of the public or private school or church; and within two hundred feet (200') if measured in a straight line from the nearest entrance of the proposed outlet to the nearest property boundary of the public or private school or church.
 3. If compliance with distance requirements would result in peculiar and exceptional practical difficulties, or exceptional and undue hardships, a variance may be required of the city council. Following a public hearing, a variance may or may not be granted by the city council. Should the city grant a variance for a Class B or C license, final authority regarding state licensure would require approval of the variance by the Alcoholic Beverage Control Commission.
- B. Conduct Of Employees And Entertainers: Lewd attire and/or sexually oriented conduct of employees and entertainers, as explicitly defined in Utah Code Annotated section 32A-10-206, subsections 10 and 13, are prohibited. Furthermore, entertainers are prohibited in this city from performing unclothed, or in attire, costume or clothing that exposes to view any portion of the female breast below the top of the areola or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.
- C. Giving, Selling And Providing Alcoholic Beverages To Specific Persons: It is unlawful for any person to give, sell, or otherwise provide alcoholic beverages for consumption to:
 1. Any person under the age of twenty one (21) years;
 2. Any person who is apparently under the influence of intoxicating alcoholic beverages or products or drugs;
 3. Any person whom the person furnishing the alcoholic beverage knew or should have known from the circumstances was under the influence of intoxicating alcoholic beverages or products or drugs; or
 4. Any person who is a known interdicted person.
- D. Business Or Premises Where Gasoline Sold: Only a Class A beer license may be granted to any person to sell beer at any business or premises where gasoline for use in motor vehicles is sold.
- E. Hours Of Alcoholic Beverage Sales: It shall be unlawful to sell or otherwise furnish or dispose of an alcoholic beverage, whether or not the premises are open to the public, during the following days and hours, according to license classification:

1. Class A Beer License: Beer may not be sold between the hours of one o'clock (1:00) A.M. and five o'clock (5:00) A.M.
2. Class B Beer License: Beer may not be sold between the hours of one o'clock (1:00) A.M. and ten o'clock (10:00) A.M.
3. Class C Beer And Liquor Consumption License:
 - a. Restaurants: Liquor may not be sold or offered for sale on the day of any election, until after the polls close, including regular general, regular primary, special statewide, municipal, special district or school elections; or on any other day between the hours of twelve o'clock (12:00) midnight and twelve o'clock (12:00) noon. Beer may not be sold between the hours of one o'clock (1:00) A.M. and ten o'clock (10:00) A.M.; and
 - b. Private Clubs: Liquor may not be sold or offered for sale on the day of any election, until after the polls close, including regular general, regular primary, special statewide, municipal, special district or school elections; or on Sundays and any state or federal legal holiday after twelve o'clock (12:00) midnight and before twelve o'clock (12:00) noon, or on any other day between the hours of one o'clock (1:00) A.M. and ten o'clock (10:00) A.M. Beer may not be sold between the hours of one o'clock (1:00) A.M. and ten o'clock (10:00) A.M.
- F. On-Premises Consumption After Hours: On-premises consumption of alcoholic beverages may continue for one hour past the time sales cease. Anyone having a Class B beer or Class C beer and liquor consumption license, or his agents or employees, shall close the establishment and remove or cause to be removed from the premises all patrons, customers, or individuals not employed on the premises no later than two o'clock (2:00) A.M.
- G. Unlawful For Patrons To Remain On Premises After Closing: It shall be unlawful for any Class B or Class C licensee, or for his agents or employees, to permit any patron, customer, or individual not employed on the premises to remain on such premises after the closing time of two o'clock (2:00) A.M.
- H. Illumination Of Premises: Licensed premises shall be kept brightly illuminated at all times while occupied or open for business; no booth, or other type of stall, shall be maintained unless all tables, chairs, and occupants are kept open to full view from the main floor and the entrance of such licensed premises.
- I. Advertising: It shall be unlawful to advertise the sale of alcoholic beverages, except as defined in the Alcoholic Beverage Control Act.
- J. Number Of Alcoholic Beverage Licenses: The total number of businesses licensed to sell alcoholic beverages in the city shall not exceed:
 1. An unlimited number of Class A beer licenses.
 2. Four (4) Class B beer licenses.
 3. Four (4) Class C beer and liquor consumption licenses.
- K. Parks And Cemeteries: No alcoholic beverages shall be allowed, sold or consumed on or in city parks and cemeteries.

Adopted by Ord. 2001 Code on 1/1/2001

3-2-13: INSPECTION OF PREMISES

- A. Premises Subject To Inspection: All licensed premises shall be subject to inspection by any officer, agent, or peace officer of the city or the Alcoholic Beverage Control Commission, or the State Board of Health, and every licensee shall, at the request of the board of health furnish to it samples of alcoholic beverages which he shall have for sale.
- B. Revocation Of License For Violation: Any license granted pursuant to this chapter may be revoked on a finding by the city council that the licensee has had ten (10) days' or more notice from the board of health that the licensee is violating one or more health ordinances, rules or regulations of the city or of the Utah Division of Health and has failed to comply with such health ordinance, rules or regulations.
- C. Closing Of Business: The city council may direct the city's law enforcement agency to close down any business licensed under this chapter where the board of health has determined that continued operation of the business presents an imminent danger to the health of the community or persons who may eat or drink at the business.

Adopted by Ord. 2001 Code on 1/1/2001

3-2-14: DISQUALIFICATION FOR CONVICTION OF CRIME

No license shall be granted to any retailer to sell alcoholic beverages within the city if the licensee, a partner, manager, officer, director, managing agent or shareholder with more than twenty percent (20%) stock has been convicted of:

- A. A felony under any federal or state law;
- B. Any violation of any federal or state law or local ordinance concerning the sale, manufacture, distribution, warehousing, adulteration or transportation of alcoholic beverages; or
- C. Any crime involving moral turpitude;
- D. Nor shall any license to sell alcoholic beverages be granted to anyone who has violated any provision of the ordinances of the city or state relating to intoxicating liquors; nor to any individual less than twenty one (21) years of age.

Adopted by Ord. 2001 Code on 1/1/2001

3-2-15: REVOCATION OR SUSPENSION

- A. Violations Related To Operation Of Business: The city council may, after a hearing, revoke or suspend any alcoholic beverage license on a finding by it that the licensee or his officers, agents or employees have violated any provision of this chapter or any ordinance of the city whether now or hereafter enacted which in any way related to the operation of the business or the safety of the public.
- B. Hearing: A hearing before the city council may be requested by any person:
 1. That is denied or refused a alcoholic beverage license by any officer, agent or employee of the city.
 2. Whose alcoholic beverage license is revoked, restricted, qualified, or limited from that for which it was first issued.
- C. Request For Hearing: The request for hearing must be made in writing to the city recorder and made within thirty (30) days following the date of notice denying, refusing, revoking, qualifying, restricting or revoking the alcoholic beverage license is mailed by the city to the applicant or license holder at his address as it appears on the application or license.
- D. Notification Of Hearing: Following receipt of a request for hearing, the city recorder shall inform the person requesting a hearing of the time and place the hearing is to be held. 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 his own evidence in support of his contention. The city council shall, within ten (10) days following the conclusion of the hearing, in writing, inform the person who requested the hearing of the decision of the city council.
- E. No More Than One Hearing: This section shall not be construed so as to afford any aggrieved party more than one hearing before the city council nor shall the hearing provided in this chapter apply to any criminal complaint or proceeding.

3-2-16: PENALTY

- A. Sales Without License: It shall be a Class B misdemeanor, subject to penalty as provided in section [1-4-1](#) of this code, for any person to engage in the business of selling alcoholic beverages at retail without first having procured a license therefor from the city.
- B. Sales After Revocation Of License: It shall be a Class B misdemeanor, subject to penalty as provided in section [1-4-1](#) of this code, for any person to sell alcoholic beverages after the revocation of the license issued pursuant to this chapter.

Adopted by Ord. 2001 Code on 1/1/2001

Chapter 3: SALES AND USE TAX

- [3-3-1: TITLE](#)
- [3-3-2: PURPOSE](#)
- [3-3-3: EFFECTIVE DATE](#)
- [3-3-4: TAX IMPOSED](#)
- [3-3-5: PENALTY](#)

3-3-1: TITLE

This chapter shall be known as THE SALES AND USE TAX ORDINANCE OF THE CITY OF HONEYVILLE.

Adopted by Ord. 90-1 on 3/12/1990

3-3-2: PURPOSE

- A. Authorization Of Tax: The Forty Eighth Session of the Utah Legislature has authorized the counties and municipalities of the state to enact sales and use tax ordinances imposing a one percent (1%) tax.
- B. Tax Established: It is the purpose of this chapter to conform the sales and use tax of the city to the requirements of the Sales and Use Tax Act, Utah Code Annotated chapter 12, title 59.

Adopted by Ord. 90-1 on 3/12/1990

3-3-3: EFFECTIVE DATE

This chapter shall become effective as of one minute after twelve o'clock (12:01) A.M., January 1, 1990.

Adopted by Ord. 90-1 on 3/12/1990

3-3-4: TAX IMPOSED

- A. Imposed:
 - 1. From and after one minute after the effective date hereof, there is levied and there shall be collected and paid a tax upon every retail sale of tangible personal property, services and meals made within the city at the rate of one percent (1%).
 - 2. An excise tax is hereby imposed on the storage, use or other consumption in the city of tangible personal property from any retailer on or after the operative date hereof at the rate of one percent (1%) of the sales price of the property.
 - 3. For the purposes of this chapter, all retail sales shall be presumed to have been consummated at the place of business delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state designation. In the event a retailer has no permanent place of business, the place or places at which the retail sales are consummated shall be as determined under the rules and regulations prescribed and adopted by the State Tax Commission. "Public utilities", as defined by Utah Code Annotated title 54, shall not be obligated to determine the place or places within any county or municipality where public utilities are rendered, but the place of sale or the sales tax revenue arising from such service allocable to the city shall be as determined by the State Tax Commission pursuant to an appropriate formula and other rules and regulations to be prescribed and adopted by it.
- B. Adoption Of State Code; Provisions:
 - 1. Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of the Sales and Use Tax Act, all of the provisions of Utah Code Annotated title 59, chapter 12, as amended, and in force and effect on the effective date hereof, insofar as they relate to sales taxes, excepting sections 59-12-101 and 59-12-119 thereof, are hereby adopted and made a part of this chapter as though fully set forth herein.
 - 2. Wherever, and to the extent that in Utah Code Annotated title 59, chapter 12, the state of Utah is named or referred to as the taxing agency, the name of this city shall be substituted therefor. Nothing in subsection B of this section shall be deemed to require substitution of the name of the city for the word "state" when the 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 that substitution would require action to be taken by or against the State Tax Commission in performing the functions incident to the administration or operation of this chapter.
 - 3. If an annual license has been issued to a retailer under Utah Code Annotated section 59-12-106, an additional license shall not be required by reason of this section.
 - 4. There shall be excluded from the purchase price paid or charged by which the tax is measured:
 - a. The amount of any sales or use tax imposed by the state upon a retailer or consumer.
 - b. The gross receipts from the sale of or the cost of storage, use or other consumption of tangible personal property upon which a sales or use tax has become due by reason of the sales transaction to any other municipality and any county in the state under the sales or use tax ordinance enacted by that county or municipality in accordance with the Sales and Use Tax Act.

Adopted by Ord. 90-1 on 3/12/1990
Amended by Ord. 2001 Code on 1/1/2001

3-3-5: PENALTY

Any person violating any of the provisions of this chapter shall be deemed guilty of a Class B misdemeanor, and upon conviction thereof, shall be subject to penalty as provided in section [1-4-1](#) of this code.

Adopted by Ord. 90-1 on 3/12/1990

Chapter 4: SEXUALLY ORIENTED BUSINESSES

- 3-4-1: PURPOSE AND FINDINGS
- 3-4-2: DEFINITIONS
- 3-4-3: CLASSIFICATIONS OF BUSINESSES
- 3-4-4: LICENSE REQUIRED
- 3-4-5: ISSUANCE OF LICENSE
- 3-4-6: FEES
- 3-4-7: INSPECTIONS
- 3-4-8: EXPIRATION OF LICENSE
- 3-4-9: TRANSFERABILITY
- 3-4-10: HOURS OF OPERATION
- 3-4-11: EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS
- 3-4-12: LOITERING, EXTERIOR LIGHTING AND MONITORING
- 3-4-13: SUSPENSION
- 3-4-14: REVOCATION
- 3-4-15: HEARING FOR DENIAL, SUSPENSION OR REVOCATION; APPEAL
- 3-4-16: APPLICATION TO EXISTING BUSINESSES
- 3-4-17: PENALTY

3-4-1: PURPOSE AND FINDINGS

- A. 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 the 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 or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is not 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 material.
- B. Findings: Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the city council, and on findings incorporated in the cases of Pap's A.M. v. City of Erie, 529 U.S. 277 (2000); City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986); Young v. American Mini Theatres, 426 U.S. 50 (1976); Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991); California v. LaRue, 409 U.S. 109 (1972); O'Connor v. City and County of Denver, 894 F.2d 1210 (10th Cir. 1990); Z.J. Gifts D-2, L.L.C. v. City of Aurora, 136 F.3d 683 (10th Cir. 1998); Dodger's Bar & Grill, Inc. v. Johnson County, 98 F.3d 1262 (10th Cir. 1996); Connection Distrib. Co. v. Reno, 154 F.3d 281 (6th Cir. 1998); Sundance Assocs. v. Reno, 139 F.3d 804 (10th Cir. 1998); American Library Association v. Reno, 33 F.3d 78 (D.C. Cir. 1994); Dodger's Bar & Grill, Inc. v. Johnson County, 32 F.3d 1436 (10th Cir. 1994); American Target Advertising, Inc. v. Giani, 199 F.3d 1241; MS News Co. v. Casado, 721 F.2d 1281 (10th Cir. 1983); Cortese v. Black, No. 95-1429, 1996 U.S. App. LEXIS 15311 (10th Cir., June 25, 1996); Salt Lake City v. Wood, 1999 Utah App. 323, 991 P.2d 595 (Utah Ct. App. 1999); United States v. Freedberg, 724 F.Supp. 851 (D. Utah 1989); and other cases; and on testimony to Congress in 136 Cong. Rec. S 8987; 135 Cong. Rec. S. 14519; 135 Cong. Rec. S 5636; 134 Cong. Rec. E 3750; and reports of secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Phoenix, Arizona - 1984; Minneapolis, Minnesota - 1980; Houston, Texas - 1997; Utahpolis, Utah; Amarillo, Texas; Garden Grove, California - 1991; Los Angeles, California - 1977; Whittier, California - 1978; Austin, Texas - 1986; Seattle, Washington - 1989; Oklahoma City, Oklahoma - 1986; Cleveland, Ohio; and Dallas, Texas - 1997; St. Croix County, Wisconsin - 1993; Bellevue, Washington - 1998; Newport News, Virginia - 1996; New York Times Square study - 1994; Phoenix, Arizona - 1995-98; and also on findings from the paper entitled "Strip Clubs According To Strippers: Exposing Workplace Sexual Violence" by Kelly Holsopple, program director, Freedom and Justice Center For Prostitution Resources, Minneapolis, Minnesota, and from "Sexually Oriented Businesses: An Insider's View" by David Sherman, presented to the Michigan house committee on ethics and constitutional law, January 12, 2000, and the report of the attorney general's working group on the regulation of sexually oriented businesses (June 6, 1989, state of Minnesota), the city council finds:
1. Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the unlicensed operators of the establishments.
 2. Certain employees of unregulated "sexually oriented businesses" defined in this chapter as adult theaters and cabarets engage in higher incidence of certain types of illicit sexual behavior than employees of other establishments.
 3. Sexual acts, including masturbation, and oral and anal sex, occur at unregulated sexually oriented businesses, especially those which provide private or semiprivate booths or cubicles for viewing films, videos or live sex shows.
 4. Offering and providing such unregulated space encourages such activities, which creates unhealthy conditions.
 5. Persons frequent certain adult theaters, adult arcades and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses, or for the purpose of purchasing or selling illicit drugs.
 6. Numerous communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis, salmonella, campylobacter and shigella infections, chlamydia, mycoplasmal and ureoplasmal infections, trichomoniasis and chancroid.
 7. According to research from the Kaiser Family Foundation, an estimated one million one hundred thousand (1,100,000) (1.1 million) Americans are infected with HIV. The number of new HIV infections occurring each year is now about fifty thousand (50,000). Men and women of all races are likely to be infected by sexual contact.
 8. Relevant statistics revealed that a total of one thousand six hundred seventy two (1,672) AIDS cases had been reported in Utah as of January 1, 1999. Utah has required HIV case reporting since 1989, and shows two thousand three hundred thirty eight (2,338) people currently living with HIV or AIDS in the state.
 9. The Centers for Disease Control and Prevention estimate that as many as twenty one percent (21%) of people with HIV do not know they are infected.
 10. The number of cases of primary and secondary syphilis in the United States reported annually has risen, with seven thousand nine hundred eighty (7,980) cases reported in 2004 and eleven thousand one hundred eighty one (11,181) through 2007.
 11. The number of cases of gonorrhea in the United States reported annually remains at a high level, with three hundred fifty thousand (350,000) cases being reported in 2007.
 12. The surgeon general of the United States in his report of October 22, 1986, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.
 13. According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts. See, e.g., findings of U.S. department of health and human services.
 14. Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and,

in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.

15. Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view "adult" oriented films.
16. The findings noted in subsections B1 through B15 of this section raise substantial governmental concerns.
17. Sexually oriented businesses have operational characteristics that should be reasonably regulated in order to protect those substantial governmental concerns.
18. A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place a heretofore nonexistent incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the city. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.
19. Removal of doors on adult booths and requiring sufficient lighting on premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theaters.
20. Requiring licensees of sexually oriented businesses to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.
21. The disclosure of certain information by those persons ultimately responsible for the day to day operation and maintenance of the sexually oriented business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases and will prevent the further secondary effects of dissemination of illegal obscenity, child pornography, and materials harmful to minors.
22. It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in the conduct which this chapter is designed to prevent or who are likely to be witnesses to such activity.
23. The fact that an applicant for an adult use has been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this chapter.
24. The barring of such individuals from employment in sexually oriented businesses for a specified period of years serves to prevent distribution of illegal material, to prevent conduct which leads to the transmission of sexually transmitted diseases, and to preclude the establishment of criminal enterprises within the city.
25. The general welfare, health, morals and safety of the citizens of the city will be promoted by the enactment of this chapter.

Adopted by Ord. 2009-02 on 4/8/2009

3-4-2: DEFINITIONS

For purposes of this chapter, the words and phrases defined in this section shall have the meanings herein respectively ascribed to them unless a different meaning is clearly indicated by the context:

ADULT ARCADE: 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 (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by their emphasis upon matter exhibiting or describing specified sexual activities or specified anatomical areas.

ADULT BOOKSTORE, ADULT NOVELTY STORE, ADULT VIDEO STORE: A commercial establishment which has significant or substantial portion of its stock in trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space to the sale or rental, for any form of consideration, of any one or more of the following:

- A. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes, compact discs, slides, or other visual representations which are characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas;
- B. Instruments, devices or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

ADULT CABARET: A nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features:

- A. Persons who appear seminude;
- B. Live performances which are characterized by the exposure of specified anatomical areas or specified sexual activities; or
- C. Films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas.

ADULT MOTEL: A motel, hotel or similar commercial establishment which:

- A. Offers public accommodations, for any form of consideration, and which regularly provides patrons with closed circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas and which regularly advertises the availability of such material by means of a sign visible from the public right of way, or by means of any off premises advertising, including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; and/or
- B. Offers a sleeping room for rent for a period of time less than ten (10) hours.

ADULT MOTION PICTURE THEATER: A commercial establishment where films, motion pictures, videocassettes, slides or similar photographic reproductions which are characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas are regularly shown for any form of consideration.

ADULT THEATER: Theater, concert hall, auditorium or similar commercial establishment which, for any form of consideration, regularly features persons who appear in a state of seminudity or live performances which are characterized by their emphasis upon the exposure of specified anatomical areas or specified sexual activities.

CONTROLLING INTEREST: The power, directly or indirectly, to direct the operation, management or policies of a business or entity, or to vote twenty percent (20%) or more of any class of voting securities of a business. The ownership, control or power to vote twenty percent (20%) or more of any class of voting securities of a business shall be presumed, subject to rebuttal, to be the power to direct the management, operation or policies of the

business.

DISTINGUISHED OR CHARACTERIZED BY AN EMPHASIS UPON: The dominant or principal theme of the object described by such phrase. For instance, when the phrase refers to films which are distinguished or characterized by an emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas, the films so described are those whose dominant or principal character and theme are the exhibition or description of specified anatomical areas or specified sexual activities.

EMPLOY, EMPLOYEE AND EMPLOYMENT: Describe and pertain to any person who performs any service on the premises of a sexually oriented business, on a full time, part time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise. "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.

ESTABLISH OR ESTABLISHMENT: Means and includes 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;
- C. The addition of any sexually oriented business to any other existing sexually oriented business; or the relocation of any sexually oriented business.

HEARING OFFICER: The board of appeals of Honeyville City.

LICENSEE: A person in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually oriented business license. In case of an "employee", it shall mean the person in whose name the sexually oriented business employee license has been issued.

OPERATE OR CAUSE TO BE OPERATED: To cause to function or to put or keep in a state of doing business.

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

PERSON: An individual, proprietorship, partnership, corporation, association or other legal entity.

REGULARLY FEATURES OR REGULARLY SHOWN: A consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the sexually oriented business.

SEMINUDE MODEL STUDIO: Any place where a person, who regularly appears in a state of seminudity, is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

- A. It is a defense to prosecution for any violation of this chapter that a person appearing in a state of seminudity did so in a modeling class operated:
 1. By a college, junior college or university supported entirely or partly by taxation;
 2. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or
 3. In a structure:
 - a. Which has no sign visible from the exterior of the structure and no other advertising that indicates a seminude person is available for viewing; and
 - b. Where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class.

SEMINUDE OR STATE OF SEMINUDITY: A state of dress in which opaque clothing covers no more than the genitals, anus, anal cleft or cleavage, pubic area, vulva, and the female breast below a horizontal line across the top of the areola, as well as portions of the body covered by supporting straps or devices. This definition shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel; provided, that the areola is not exposed in whole or in part.

SEXUALLY ORIENTED BUSINESS: An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, or adult entertainment outcall service in the form of seminude dancing or exhibition, adult motion picture theater, adult theater, seminude model studio, or sexual encounter establishment.

SEXUALLY ORIENTED ENTERTAINMENT ACTIVITY: The sale, rental or exhibition for any form of consideration, of books, films, videocassettes, magazines, periodicals, or live performances which are characterized by an emphasis on the exposure or display of specific sexual activity.

SPECIFIED ANATOMICAL AREAS: Human genitals, anus, cleft of the buttocks, or the female breast.

SPECIFIED CRIMINAL ACTIVITY: Any of the following offenses:

- A. Prostitution or promotion of prostitution; dissemination of obscenity or illegal pornography; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; lewdness; sexual battery; rape; indecent exposure; indecency with a child; engaging in organized criminal activity relating to a sexually oriented business; sexual assault; molestation of a child; or distribution of a controlled substance; criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses or offenses involving the same elements from any jurisdiction regardless of the exact title of the offense; for which:
 1. Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
 2. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or
 3. Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty four (24) month period.
- B. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

SPECIFIED SEXUAL ACTIVITY: Any of the following:

- A. Sex acts, normal or perverted, including intercourse, oral copulation, masturbation or sodomy; or
- B. Excretory functions as a part of or in connection with any of the activities described in subsection A of this definition.

TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY ORIENTED BUSINESS: Any of the following:

- A. The sale, lease or sublease of the business;
- B. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means; or
- C. The establishment of a trust, gift or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

VIEWING ROOM: The room, booth or area where a patron of sexually oriented business would ordinarily be positioned while watching a film, videocassette or other video reproduction.

Adopted by Ord. 2009-02 on 4/8/2009

3-4-3: CLASSIFICATIONS OF BUSINESSES

Sexually oriented businesses shall be classified as follows:

- A. Adult arcades;
- B. Adult bookstores, adult novelty stores, adult video stores;
- C. Adult cabarets;
- D. Adult motels;
- E. Adult motion picture theaters;
- F. Adult theaters; and
- G. Seminude model studios.

Adopted by Ord. 2009-02 on 4/8/2009

3-4-4: LICENSE REQUIRED

- A. Sexually Oriented Business License Required: It shall be unlawful for any person to operate a sexually oriented business in the city without a valid sexually oriented business license.
- B. Employee License Required: 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. Application: An applicant for a sexually oriented business license or a sexually oriented business employee license shall file in person, at the business license division, a completed application made on a form provided by the city. The application shall be signed by the applicant and be notarized.
- D. Complete Application Requirements: An application shall be considered complete when it contains the information required in this subsection as follows:
 1. The applicant's full true name and any other names used in the preceding five (5) years.
 2. Current business address or another mailing address of the applicant.
 3. Written proof of age, in the form of a copy of a birth certificate or driver's license or other picture identification document issued by a governmental agency.
 4. If the application is for a sexually oriented business license, the business name, location, legal description, mailing address and phone number (if one currently exists) of the proposed sexually oriented business.
 5. If the application is for a sexually oriented business license, the name and address of the statutory agent or other agent authorized to receive service of process.
 6. A statement of whether the applicant has been convicted or has pled guilty or nolo contendere to a "specified criminal activity", as defined in this chapter, and, if so, the specified criminal activity involved, the date, place and jurisdiction of each. The statement shall also disclose whether the applicant has had a previous sexually oriented business or sexually oriented business employee license under this chapter or other sexually oriented business ordinances from another city or county denied, suspended or revoked within the past two (2) years, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant has been a partner in a partnership, or an officer, director or stockholder with a controlling interest in a corporation that is licensed under this chapter whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation.
 7. An application for a sexually oriented business license shall be accompanied by 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 (.6"). Applicants who are required to comply with section 3-4-11 of this chapter shall submit a diagram meeting the requirements of that section.
 8. The information provided pursuant to subsections D1 through D7 of this section shall be supplemented in writing by certified mail, return receipt requested, to the city within ten (10) working days of a change of circumstances which would render the information originally submitted false or incomplete.
- E. Signature; Qualification: If a person who wishes to operate a sexually oriented business is an individual, he shall sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each officer, director, general partner or other person who will participate directly in decisions relating to management and control of the business shall sign the application for a license as applicant. Each applicant must be qualified under section 3-4-5 of this chapter and each applicant shall be considered a licensee if a license is granted.
- F. License Additional: A license or permit required by this chapter is in addition to any other licenses or permits required by the city, county or state to engage in the business or occupation. Persons engaged in the operation of an adult oriented business or in employment in an adult oriented business shall comply with all other applicable local, state and federal laws, ordinances and statutes, including zoning ordinances, as may be required.
- G. Information Confidential: The information provided by an applicant in connection with an application for a license under this chapter shall be maintained by the city on a confidential basis, except that such information may be disclosed only to law enforcement agencies in connection with a law enforcement or public safety function, or as may be required by governing law or court order. The information provided by a sexually oriented business license applicant in connection with the application for a license under this chapter shall be maintained by the city.

Adopted by Ord. 2009-02 on 4/8/2009

3-4-5: ISSUANCE OF LICENSE

- A. Sexually Oriented Business: Upon the filing of a completed application under subsection [3-4-4C](#) of this chapter, for a sexually oriented business license, the management services department 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 the license. Within forty (40) days of the initial filing date of the completed application, the city shall issue a license to the applicant or issue to the applicant a letter of intent to deny the application. The city shall approve the issuance of a license unless one or more of the following is found by a preponderance of evidence to be true:
1. An applicant is less than eighteen (18) years of age.
 2. An applicant has failed to provide information as required by section [3-4-4](#) of this chapter 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 this chapter has not been paid.
 4. An applicant has been convicted of a "specified criminal activity", as defined in this chapter, or has been shown to have committed a violation of subsection [3-4-7A](#) or [3-4-14B](#) of this chapter within the previous year.
 5. In the case of a sexually oriented business license application, the premises is not in compliance with the interior configuration requirements of this chapter.
- B. Business Employee License: Upon the filing of a completed application for a sexually oriented business employee license, the management services department shall issue a temporary license to the applicant, which temporary license shall expire upon the final decision of the city to deny or grant the license. Within forty (40) days of the initial filing date of the receipt of a completed application, the city shall either issue a license or issue a written notice of intent to deny a license to the applicant. The city shall approve the issuance of a license unless one or more of the following is found by a preponderance of evidence to be true:
1. The applicant is less than eighteen (18) years of age; or
 2. The applicant is less than twenty one (21) years of age in establishments where alcohol is served or consumed.
 3. The applicant has failed to provide information as required by section [3-4-4](#) of this chapter for issuance of a license or has falsely answered a question or request for information on the application form.
 4. The license application fee required by this section has not been paid.
 5. The applicant has been convicted of a "specified criminal activity", as defined in this chapter, or has been shown to have committed a violation of subsection [3-4-7A](#) or [3-4-14B](#) of this chapter within the previous year.
- C. Content Of License: The license, if granted, shall state on its face the name of the person or persons 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 easily read at any time. A sexually oriented business employee shall keep the employee's license on his or her person or on the premises where the licensee is then working or performing and shall produce such license for inspection upon request by a law enforcement officer or other city official performing functions connected with the enforcement of this chapter.

Adopted by Ord. [2009-02](#) on 4/8/2009

3-4-6: FEES

The initial license and annual renewal fees for a sexually oriented business license or a sexually oriented business employee license shall be set by the city council at an amount determined by the city council as sufficient to pay the cost of administering this chapter. In no event shall the fees exceed two hundred dollars (\$200.00) for the initial fee of a business and one hundred dollars (\$100.00) for annual renewal; and one hundred dollars (\$100.00) for the initial employee license and fifty dollars (\$50.00) for annual renewal.

Adopted by Ord. [2009-02](#) on 4/8/2009

3-4-7: INSPECTIONS

- A. Compliance Required: Sexually oriented business operators and sexually oriented business employees shall permit officers or agents of the city who are performing functions connected with the enforcement of this chapter to inspect the portions of the sexually oriented business premises where patrons are permitted, for the purpose of ensuring compliance with this chapter, at any time the sexually oriented business is occupied by patrons or open for business. A licensee's knowing or intentional refusal to permit such an inspection shall constitute a violation of this section.
- B. Exception: 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.

Adopted by Ord. [2009-02](#) on 4/8/2009

3-4-8: EXPIRATION OF LICENSE

Each license shall remain valid for a period of one calendar year from the date of issuance unless otherwise suspended or revoked. Such license may be renewed only by making application and payment of a fee as provided in sections [3-4-4](#) and [3-4-6](#), respectively, of this chapter. Application for renewal should be made at least ninety (90) days before the expiration date, and when made less than ninety (90) days before the expiration date, the expiration of the license will not be affected.

Adopted by Ord. [2009-02](#) on 4/8/2009

3-4-9: TRANSFERABILITY

A licensee shall not transfer his or her license to another person or entity, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the sexually oriented business license application.

Adopted by Ord. [2009-02](#) on 4/8/2009

3-4-10: HOURS OF OPERATION

No sexually oriented business shall open to do business before ten o'clock (10:00) A.M. or remain open after two o'clock (2:00) A.M. on the following day.

Adopted by Ord. [2009-02](#) on 4/8/2009

3-4-11: EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS

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 one hundred fifty (150) square feet of floor space, films, videocassettes, or other video reproductions characterized by an emphasis on the display of specified sexual activities or specified anatomical areas, shall comply with the following requirements:

- A. Each application for a sexually oriented business license shall contain a diagram of the premises showing the location of all manager's stations, viewing rooms, overhead lighting fixtures, video cameras and monitors installed for monitoring purposes, and restrooms, and shall designate all portions of the premises in which patrons will not be permitted. Restrooms shall not contain video reproduction equipment. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, 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 (.6"). The city may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
- B. The application shall be sworn to be true and correct by the applicant.
- C. No alteration in the configuration or location of a manager's station or viewing room may be made without the prior approval of the city.
- D. It shall be the duty of the operator, and of any employees present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection A of this section.
- E. The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one foot-candle as measured at the floor level. It shall be the duty of the operator, and of any employees present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.
- F. It shall be the duty of the operator, and of any employees present on the premises, to ensure that no criminal sexual activity occurs in or on the licensed premises.
- G. It shall be the duty of the operator, and of any employees present on the premises, to ensure that not more than one person is present in a viewing room at any time. No person shall enter a viewing room that is occupied by another person.
- H. It shall be the duty of the operator, and of any employees present on the premises, to ensure that no openings of any kind exist between viewing rooms. No person shall make an attempt to make an opening of any kind between viewing rooms.
 - I. It shall be the duty of the operator, or of any employee who discovers two (2) or more patrons in a viewing room or discovers any person making or attempting to make an opening of any kind between viewing rooms, to immediately escort such persons from the premises.
 - J. It shall be the duty of the operator, or of any employee, who discovers an opening of any kind between viewing rooms to immediately secure such rooms, and prevent entry into them by any patron until such time as the wall between the rooms has been repaired to remove the opening. Removal and repairing openings between viewing rooms shall be in a manner that is as structurally substantial as the original wall construction.
- K. It shall be the duty of the operator, at least once each business day, to inspect the walls between viewing rooms for openings of any kind.
- L. It shall be the duty of the operator to post conspicuous signs in well lighted entry areas of the business stating all of the following:
 1. No loitering is permitted in viewing rooms.
 2. The occupancy of viewing rooms is limited to one person.
 3. Sexual activity on the premises is prohibited.
 4. The making of openings between viewing rooms is prohibited.
 5. Violators will be required to leave the premises.
 6. Violations of subsections L2 through L4 of this section are unlawful.
- M. It shall be the duty of the operator to ensure that floor coverings in viewing rooms are nonporous, easily cleanable surfaces, with no rugs or carpeting.
- N. It shall be the duty of the operator to ensure that all wall surfaces and seating surfaces in viewing rooms are constructed of or permanently covered by nonporous, easily cleanable material.
- O. It shall be the duty of the operator to ensure that premises are clean and sanitary. Such duty shall be fulfilled if the operator complies with the following cleaning procedures:
 1. The operator shall maintain a regular cleaning schedule of at least two (2) cleanings per day, documented by appropriate logs.
 2. The operator shall provide an employee to check all areas for garbage, trash, body fluids and excrement and to remove and clean all areas with a disinfectant. All solid waste generated by the business shall be collected from the premises for disposal at a lawful solid waste disposal facility at least once each week. Prior to collection, solid waste shall be stored in a manner that prevents access by animals or members of the public and which will not facilitate the creation of a health nuisance.
 3. Thorough cleaning of the entire interior of any room providing patron privacy shall be done using a disinfectant. Cleaning shall include floors, walls, doors, seating, monitors, video cameras, and windows and other surfaces.
- P. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises in which patrons are permitted, including the interior of each viewing room, but excluding restrooms, to which any patron is permitted access for any purpose. A manager's station shall not exceed forty (40) square feet of floor area. If the premises has two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
 1. It is the duty of the operator to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is on the premises. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this subsection remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.
 2. It shall be unlawful for a person having a duty under this subsection to knowingly fail to fulfill that duty.

Adopted by Ord. 2009-02 on 4/8/2009

3-4-12: LOITERING, EXTERIOR LIGHTING AND MONITORING

- A. Requirements: It shall be the duty of the operator of a sexually oriented business to: 1) initiate and enforce a no loitering policy within the external boundaries of the real property upon which the sexually oriented businesses are located; 2) post conspicuous signs stating that no loitering is permitted on such property; 3) designate one or more employees to monitor the activities of persons on such property by visually inspecting such property at least once every ninety (90) minutes or inspecting such property by use of video cameras and monitors; and 4) provide lighting of the exterior premises to provide for visual inspection or provide video monitoring to prohibit loitering. If used, video cameras and monitors shall operate continuously at all times that the premises is open for business. The monitors shall be installed within a manager's station.

- B. Failure To Fulfill Duty: It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

Adopted by Ord. 2009-02 on 4/8/2009

3-4-13: SUSPENSION

The city shall issue a written letter of intent to suspend a sexually oriented business license for a period not to exceed thirty (30) days if it is determined that the sexually oriented business licensee has knowingly violated this chapter or has knowingly allowed an employee to violate this chapter. The city shall issue a written letter of intent to suspend a sexually oriented employee license if it is determined that the employee has knowingly violated this chapter.

Adopted by Ord. 2009-02 on 4/8/2009

3-4-14: REVOCATION

- A. Suspension Within Specified Time: The city shall issue a letter of intent to revoke a sexually oriented business license or a sexually oriented business employee license if a cause of suspension as provided in section 3-4-13 of this chapter occurs and the license has been suspended within the preceding twelve (12) months.
- B. Evidence Of Violations: The city shall issue a letter of intent to revoke a sexually oriented business license or, in the case of an employee, a sexually oriented business employee license, if the officer determines by a preponderance of evidence that:
1. The licensee has knowingly given false or misleading information in the application for the license.
 2. The sexually oriented business licensee has knowingly allowed possession, use or sale of controlled substances on the premises, or in the case of an employee, the sexually oriented business employee licensee has knowingly engaged in the possession, use or sale of controlled substances on the premises. It shall be a defense to revocation proceedings under this subsection that such possession, use or sale occurred pursuant to a valid medical prescription.
 3. The sexually oriented business licensee has knowingly allowed prostitution on the premises or, in the case of an employee, the sexually oriented business employee licensee has engaged in prostitution on any licensed premises.
 4. The sexually oriented business licensee knowingly operated the sexually oriented business during a period of time when the license was suspended or, in the case of an employee, the sexually oriented business employee licensee has been employed as a sexually oriented business employee at a time when the employee's license was suspended.
 5. The sexually oriented business licensee committed an act in violation of 18 United States Code section 2257, in or on the premises, or in the case of an employee, the sexually oriented business employee licensee committed an act in violation of 18 United States Code section 2257, in or on the premises.
 6. The sexually oriented business licensee has knowingly allowed any specified sexual activity to occur in or on the premises or, in the case of an employee, the sexually oriented business employee licensee has engaged in any specified sexual activity in or on any licensed premises.
- C. Appeal No Effect: The fact that any relevant conviction is being appealed shall have no effect on the revocation of the license.
- D. Applicability Of Employee Acts: For the purposes of this section, an act by any employee that constitutes grounds for revocation of that employee's license shall also be imputed to the sexually oriented business for purposes of revocation proceedings if the hearing officer determines by a preponderance of evidence that an officer, director or general partner, or an employee who managed, supervised or controlled, or participated directly in decisions relating to management or control in the operation of the business, knowingly allowed such act to occur on the premises.
- E. Nature Of Revocation: When, after the notice and hearing procedure described in section 3-4-15 of this chapter, the hearing officer revokes a license, the 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; provided, that if the conditions of subsection 3-4-15B of this chapter are met, a provisional license will be granted pursuant to that subsection. If, subsequent to a revocation based solely on subsection B1 of this section, the city finds that the basis for the revocation has been corrected or abated, the applicant shall be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective. If the license was revoked under subsections B2 through B6 of this section, an applicant may not be granted another license until at least one year has elapsed.

Adopted by Ord. 2009-02 on 4/8/2009

3-4-15: HEARING FOR DENIAL, SUSPENSION OR REVOCATION; APPEAL

- A. Procedure: If the city determines that facts exist for denial, suspension or revocation of a license under this chapter, the city shall notify the applicant or licensee (respondent) in writing of the city's intent to deny, suspend or revoke the license, including the grounds therefor, by personal delivery, or by certified mail.
1. The notification shall be directed to the most current business address or other mailing address on file with the city for the respondent. Within ten (10) working days of receipt of such notice, the respondent may provide to the city a written response that shall include a statement of reasons why the respondent believes the license should not be denied, suspended or revoked.
 2. Within five (5) days of the receipt of respondent's written response, the city shall notify respondent in writing of the hearing date on respondent's denial, suspension or revocation proceeding. Within ten (10) working days of the receipt of respondent's written response, the board of appeals shall conduct a hearing at which respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross examine any of the city's witnesses. The hearing shall take no longer than two (2) days, unless extended to meet the requirements of due process and proper administration of justice. The board of appeals shall issue a written opinion within five (5) days after the hearing. If a court action challenging the city's decision is initiated, the city shall prepare and transmit to the court a transcript of the hearing within ten (10) days after the issuance of the board of appeals' written opinion.
 3. If a written response from respondent is not received by the city within the time stated in subsection A1 of this section, or if after a hearing, the hearing officer concludes that grounds as specified in this chapter exist for denial, suspension or revocation of the license, then such denial, suspension or revocation shall become final five (5) days after the hearing officer sends, by certified mail, written notice to the respondent that the license has been denied, suspended or revoked. Such notice shall include a statement advising the respondent of the right to appeal such decision to a court of competent jurisdiction. If the hearing officer finds that no grounds exist for denial, suspension or revocation of a license, then within five (5) days after the hearing, the hearing officer shall immediately withdraw the intent to deny, suspend or revoke the license and shall notify the respondent in writing by certified mail of such action. The city shall contemporaneously therewith issue the license to the applicant.
- B. Appeal: An applicant or licensee (aggrieved party) whose application for a license has been denied or whose license has been suspended or revoked shall have the right to appeal such action to a court of competent jurisdiction. 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 aggrieved party a

provisional license. The provisional license shall allow the aggrieved party to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire upon the court's entry of a judgment on the aggrieved party's appeal or other action to restrain or otherwise enjoin the city's enforcement.

- C. Application During Temporary License Or Provisional License: Sexually oriented businesses or sexually oriented business employees operating or working under temporary licenses (as provided for in section [3-4-5](#) of this chapter), provisional licenses (as provided for in subsection B of this section), or de facto temporary licenses (as provided for in section [3-4-16](#) of this chapter) shall be subject to the provisions of sections [3-4-9](#) through [3-4-12](#), [3-4-16](#), and [3-4-17](#) of this chapter.

Adopted by Ord. [2009-02](#) on 4/8/2009

3-4-16: APPLICATION TO EXISTING BUSINESSES

Upon adoption, the provisions of this chapter shall apply to the activities of all sexually oriented businesses and sexually oriented business employees described herein, whether such businesses or activities were established or commenced before, on or after the effective date hereof. All existing sexually oriented businesses and sexually oriented business employees are hereby granted a de facto temporary license to continue operation or employment for a period of ninety (90) days following the effective date hereof. Within said ninety (90) days, all sexually oriented businesses and sexually oriented business employees must make application for a license pursuant to this chapter. Within said ninety (90) days, sexually oriented businesses must make any necessary changes to the interior configurations of the regulated business premises to conform to this chapter.

Adopted by Ord. [2009-02](#) on 4/8/2009

3-4-17: PENALTY

- A. Any 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 subject to a civil fine not to exceed two thousand five hundred dollars (\$2,500.00). Each day the violation is committed, or permitted to continue, shall constitute a separate offense and shall be fined as such.
- B. Any person who violates any provision of this chapter shall be guilty of a class B misdemeanor and, upon conviction, subject to the penalty as provided in this code.
- C. The city attorney is hereby authorized to institute criminal or 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; provided, however, that nothing in this section and no action taken thereunder, shall be held to exclude such criminal proceedings as may be authorized by other provisions of this code, or any of the laws or ordinances in force in the city, or to exempt anyone violating this code or any part of the said laws from any penalty which may be incurred.

Adopted by Ord. [2009-02](#) on 4/8/2009

Title 4 - PUBLIC HEALTH AND SAFETY

Chapter 1: FIRE DEPARTMENT

Chapter 2: NUISANCES

Chapter 3: OPEN BURNING

Chapter 4: WEEDS

Chapter 5: GARBAGE AND REFUSE

Chapter 6: LITTER; HANDBILLS

Chapter 7: OFFENSIVE BUSINESSES AND FACILITIES

Chapter 8: RECOVERY OF AGGRAVATED EMERGENCY COSTS

Chapter 1: FIRE DEPARTMENT

4-1-1: ESTABLISHED

4-1-2: FIRE CHIEF POSITION CREATED

4-1-3: POWERS AND DUTIES OF FIRE CHIEF

4-1-4: DESIGNATION OF EMERGENCY VEHICLES

4-1-5: RESPONSIBILITIES, RIGHTS AND RESTRICTIONS

4-1-1: ESTABLISHED

There is hereby created a fire department to be known as the Honeyville City volunteer fire department.

Adopted by Ord. 1976 Code § 10-111 on 1/1/1976

Amended by Ord. 2001 Code on 1/1/2001

4-1-2: FIRE CHIEF POSITION CREATED

There is hereby created the position of chief of the fire department.

Adopted by Ord. 1976 Code § 10-121 on 1/1/1976

4-1-3: POWERS AND DUTIES OF FIRE CHIEF

- A. Supervision Of Department: The fire chief shall have responsibility for the general supervision of the department.
- B. Control And Extinguish Fire: During a fire, the fire chief shall have full authority to take all measures as he shall deem necessary, subject to state law, to control and extinguish the fire and for that purpose he is hereby made a special peace officer.
- C. Report Information To City Council: The fire chief shall, at least quarterly, report to the city council the condition of the fire equipment, the number of fires and their causes and the estimated loss therefrom, together with such other information as the city council may request or as he shall deem appropriate.
- D. Enforce Fire Protection And Prevention: The fire chief shall strictly enforce all of the provisions of the ordinances of the city relating to the protection against and prevention of fire.
- E. Maintain Equipment: The fire chief shall maintain the equipment of the department in good repair and order and ready for use.
- F. Establish Rules And Regulations: The fire chief, subject to the approval of the mayor and city council, shall establish rules and regulations for the operation of the department.
- G. Delegate Duties: The fire chief may delegate his duties to any person employed by the department, but such delegation shall not relieve the fire chief of his responsibility for the performance thereof.
- H. Investigation Of Fires: The fire chief shall cause all fires to be promptly investigated to determine the cause of the fire and report the cause of the fire, the time originated and such other information as may be relevant to prevent other fires.
- I. Employ Firefighters And Personnel: The fire chief may make recommendations to the mayor relating to the employment of firefighters and such other personnel as may be necessary to enforce the provisions of this chapter. The fire chief may employ such additional personnel as the mayor and city council may direct or authorize.

Adopted by Ord. 1976 Code §§ 10-122, 10-123 on 1/1/1976

4-1-4: DESIGNATION OF EMERGENCY VEHICLES

Fire trucks and other city-authorized motor vehicles used to transport fire equipment or fire personnel are hereby designated authorized emergency vehicles.

Adopted by Ord. 1976 Code § 10-131 on 1/1/1976

Amended by Ord. 2001 Code on 1/1/2001

4-1-5: RESPONSIBILITIES, RIGHTS AND RESTRICTIONS

- A. Removal Of Obstructions At Fire: The officer in charge at any fire may order the removal or destruction of any fence, building or structure, or that any utility be closed, cut or removed when deemed necessary to control, extinguish or prevent the spread of fire.
- B. Control Of Persons: All persons present at a fire shall obey the lawful orders of any firefighter.
- C. Interference With Firefighters In Discharge Of Duties: Every person at the scene of any fire who wilfully disobeys the lawful orders of any public officer or firefighter, or offers any resistance to or interference with the efforts of any firefighter, or company of firefighters to extinguish the same, or engages in any disorderly conduct calculated to prevent the same from being extinguished, or who forbids, prevents or dissuades others from assisting to extinguish the same, is guilty of a Class B misdemeanor and upon conviction thereof, subject to penalty as provided in section [1-4-1](#) of this code.
- D. Unlawful Interference: Any person who shall wilfully hinder any officer or firefighter in the discharge of his duty at a fire, or in any manner injure, deface or destroy any engine, hose or other fire apparatus belonging to the city or who shall interfere with any fire company or person, or who shall wilfully break or injure any water pipe or interfere with the water or its source of supply, shall be deemed guilty of a Class B misdemeanor and upon conviction thereof, subject to penalty as provided in section [1-4-1](#) of this code.
- E. Investigation After Fire Report: The fire chief, or such other persons as he shall designate, shall, after extinguishing a fire, make a prompt and thorough investigation of the cause of the fire, the time the fire began, the amount of loss and insurance, a description of the affected buildings and premises, and shall secure all other useful information available, and record the same in a record book kept for that purpose in the office of the department and shall report the same to the city council at such time as it may direct.
- F. Right To Enter And Inspect: The fire chief or his deputies, upon presentation of proper credentials, shall have the right to enter upon any premises at all reasonable hours for the purpose of making inspections.

- G. Persons Present Subject To Orders: Every capable person eighteen (18) years or older present at a fire shall be subject to the orders of the officer in command and shall render assistance in the manner directed by the officer in command.
- H. False Alarm: It shall be unlawful for any person to turn in or report to the fire department a false alarm or report of a fire or to tamper or remove any part of a fire alarm system.

Adopted by Ord. 1976 Code §§ 10-132, 10-133, 10-134, 10-135, 10-136, 10-137, 10-138, 10-139 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001

Chapter 2: NUISANCES

- 4-2-1: DEFINITIONS**
- 4-2-2: DECLARATION OF NUISANCE**
- 4-2-3: RESTROOM OR SEWER FACILITIES**
- 4-2-4: RESTRICTIONS ON BLOCKING WATER**
- 4-2-5: NUISANCES ON PROPERTY**
- 4-2-6: ABATEMENT PROCEDURE**
- 4-2-7: PENALTY FOR FAILURE TO COMPLY**

4-2-1: DEFINITIONS

As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

AUTHOR: Where a nuisance exists upon property and is the outgrowth of the usual, natural or necessary use of the property, the landlord or his agent, the tenant or his 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.

NUISANCE: Whatever is dangerous to human life or health and whatever renders soil, air, water or food impure or unwholesome is declared to be a nuisance and unlawful. It shall be unlawful for any person either as an owner, agent or occupant to create or aid in creating or contributing to or maintaining a nuisance.

Adopted by Ord. 1976 Code §§ 10-311, 10-312 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001

4-2-2: DECLARATION OF NUISANCE

- A. Statement: Every act or condition made, permitted, allowed or continued in violation of section [4-2-1](#) of this chapter, is hereby declared to be a nuisance and may be abated and punished as hereinafter provided.
- B. Specified: Nuisances include, but are not limited to:
1. Befouling Water: Befouling water in any spring, stream, well or water source supplying water for culinary purposes.
 2. Privies, Cesspools: 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, except when it is temporarily deposited for immediate removal.
 5. Manure Accumulation: Permitting the accumulation of manure in any stable, stall, corral, feed yard, yard 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 Mosquitos: Having or permitting upon any premises any fly- or mosquito-producing condition.
 10. Public Drinking Vessels: Keeping any drinking vessel for public use without providing a method of decontamination between uses.
 11. Ablutions Near Drinking Fountain: Permitting or performing any ablutions in or near any public drinking fountain.
 12. Boarding House Or Factory, Sanitary Condition: Failing to furnish any dwelling house, boarding house 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.
 13. 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 twenty (20) days after notice from an enforcement officer or official of the city.
 14. Stagnant Water; Offensive Substances: Permitting any lot or excavation to become the repository of stagnant water or any decaying or offensive substances.
 15. 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.
- C. Additional 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.

Adopted by Ord. 1976 Code §§ 10-313, 10-314 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001

4-2-3: RESTROOM OR SEWER FACILITIES

All restroom or sewer facilities shall be constructed and maintained in accordance with Utah 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.

Adopted by Ord. 1976 Code § 10-315 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001

4-2-4: RESTRICTIONS ON BLOCKING WATER

- A. 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 therefrom, or to become unsanitary.
- B. Maintenance of any such watercourse in such condition shall constitute a nuisance and the same shall be subject to abatement.

Adopted by Ord. 1976 Code § 10-316 on 1/1/1976

4-2-5: NUISANCES ON PROPERTY

- A. Definition: For the purpose of this section, the term "nuisance" is defined to mean 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 automobiles, furniture, stoves, refrigerators, freezers, cans, containers or other discarded items not currently in use.
- B. Duty Of Maintenance: 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.
- C. 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 purpose for which it was manufactured, for a period of thirty (30) days or more (except in licensed junkyards) within the city, is hereby declared to be a nuisance and dangerous to the public safety.
- D. Abatement By Owners: The owner, owners, tenants, lessees or occupants of any lot within the city on which such "storage", as defined in subsection C of this section, 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 purpose, or otherwise remove such property from the city.

Adopted by Ord. 1976 Code §§ 10-331, 10-332, 10-333, 10-334 on 1/1/1976

Amended by Ord. 2001 Code on 1/1/2001

4-2-6: ABATEMENT PROCEDURE

- A. Nuisance Inspector:
 - 1. Established: There is hereby established the position of nuisance inspector, whose duty it shall be to enforce the provisions of this chapter. Until another person is designated, the council member over public health and safety shall enforce the provisions of this chapter. More than one person may be appointed to act as nuisance inspector under this section.
 - 2. Duties: The nuisance inspector is authorized to:
 - a. Perform all functions necessary to enforce the provisions of this chapter.
 - b. 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.
 - 3. Existence Of Objectional Condition: If he concludes that there exists an objectionable condition in violation of this chapter, the nuisance inspector shall:
 - a. Ascertain the names of the owners and occupants and descriptions of the premises where such objects and conditions constituting a nuisance exist.
 - b. 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 inspector may designate; provided, that any person notified pursuant to this subsection shall be given at least ten (10), but not more than twenty (20) days, as determined by the nuisance inspector following the date of service of such notice, to correct the objectionable condition. The notice shall:
 - (1) Contain a specific statement of the nature of the violation and generally describe the premises on which the violation exists.
 - (2) Inform the owner, occupant or other person that in the event he disagrees with the determination of the nuisance inspector and does not wish to comply with the provisions of the notice or that he objects to the factual or legal basis for the notice, he 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.
 - (3) Inform the person that in the event he 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 he 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.
 - c. In the event the owner or occupant makes such request for a hearing, the city council shall set the time and place for 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 held within less than five (5) days from the date of service or mailing of the notice of hearing.
- B. Hearing:
 - 1. 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 inspector and other interested parties. Thereafter, within not less than five (5) nor more than ten (10) 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 inspector.
 - 2. Notice Of Decision; Abatement By Owner Or Occupant: In the event the decision of the city council upholds the determination of the nuisance inspector, the notice originally given by the nuisance inspector 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 he shall have up to ten (10) days from the date of notice of the decision within which to conform thereto, unless additional time, not to exceed thirty (30) days, is authorized by the nuisance inspector.
 - 3. Time Period For Compliance: In the event that the decision of the city council either overrules or modifies the determination of the nuisance

inspector, 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 (10) 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 inspector, unless additional time is authorized by the city council.

4. Filing Of Amended Notice: The nuisance inspector shall file an amended notice and proof of service of notice and file the same in the office of the County Treasurer.
- C. 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 inspector shall employ all necessary assistance to cause such objectionable objects or conditions to be removed or destroyed at the expense of the city.
- D. Itemized Statement: The nuisance inspector 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 twenty (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.
- E. 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 twenty (20) days, the nuisance inspector 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.
- F. Collection:
 1. 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.
 2. Taxes: In the event that the nuisance inspector elects to refer the expenses of destruction or removal to the County Treasurer for inclusion in the tax notice of the property owner, he shall make in triplicate an itemized statement of all expenses incurred in the destruction and removal of the same, and shall deliver three (3) copies of the statement to the County Treasurer within ten (10) 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 Utah Code Annotated section 10-11-4, as amended, and the recalcitrant owner shall have such rights and shall be subject to such powers as are thereby granted.
- G. Criminal Proceedings: 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.

Adopted by Ord. 1976 Code §§ 10-351, 10-352, 10-353, 10-354, 10-355, 10-356, 10-357, 10-358 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001

4-2-7: 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 for each offense, and upon conviction thereof, subject to penalty as provided in section 1-4-1 of this code. Each twenty four (24) hour period will be a separate violation.
- 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.

Adopted by Ord. 1976 Code § 10-359 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001

Chapter 3: OPEN BURNING

4-3-1: COUNTY REGULATIONS ADOPTED

4-3-1: COUNTY REGULATIONS ADOPTED

The city hereby adopts by this reference the county open burning regulations and permit requirements, as may be amended from time to time, three (3) copies of which have been filed for use and examination by the public in the city office.

Adopted by Ord. 91-3 on 8/12/1991
Amended by Ord. 2001 Code on 1/1/2001

Chapter 4: WEEDS

4-4-1: DEFINITION

4-4-2: STANDARD OF WEED CONTROL

4-4-3: PENALTY

4-4-1: DEFINITION

Weeds shall include any vegetation commonly referred to as a weed or which shall have been designated a noxious weed by the Utah Commissioner of Agriculture.

Adopted by Ord. 1976 Code § 10-322 on 1/1/1976

4-4-2: STANDARD OF WEED CONTROL

- A. Conditions Constituting Nuisance: It is hereby declared that the above stated weeds constitute a nuisance when they:
 1. 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; and
 2. Exceed eighteen inches (18") from the ground or soil in which they are anchored.
- B. Removal: The cut weeds shall be removed from the premises within forty eight (48) hours after cutting.

Adopted by Ord. 1976 Code § 10-323 on 1/1/1976

4-4-3: PENALTY

It shall be an infraction and subject to penalty as provided in section [1-4-1](#) of this code for any person owning or occupying real property to allow weeds to grow higher on such property than is permitted by this chapter or not to remove from such property any cuttings of such weeds or any refuse, unsightly or deleterious objects after having been given notice.

*Adopted by Ord. 1976 Code § 10-321 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

Chapter 5: GARBAGE AND REFUSE

4-5-1: DEFINITIONS

4-5-2: REGULATIONS

4-5-1: DEFINITIONS

As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

COMMERCIAL GARBAGE: Refers to garbage produced in commercial establishments, public or quasi-public institutions or establishments, including restaurants, hotels, motels and similar establishments.

COMMUNITY WASTE: Lawn cuttings, clippings from bushes and shrubs, leaves and trees and tree branches.

CONTAINER OR REGULATION CONTAINER: A type of garbage or trash container of galvanized metal or other approved material and having a tight-fitting lid or properly and sufficiently treated weather resistant paper bag manufactured specifically for use in garbage and refuse collection.

GARBAGE: Waste from the preparation, handling, storing, cooking or consumption of food and food products.

REFUSE: All waste matter, except garbage, attending or resulting from the occupancy of residences, apartments, hotels or other places of dwelling and from the operation of a business. Refuse shall not be deemed to include industrial waste or waste matter resulting from the construction, demolition or repair of a building or other structure.

RESIDENTIAL GARBAGE: Garbage produced in places of private residence and dining halls not open to the public.

*Adopted by Ord. 1976 Code § 10-411 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

4-5-2: REGULATIONS

- A. No Accumulation Of Garbage: It shall be unlawful for any person to accumulate garbage or refuse or cause garbage or refuse to be deposited upon any street or alley or upon any premises in the city without express permission from the health officer. The health 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 health officer may designate and under such restrictions as the city council may by regulation impose. Additionally, the health 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 would 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, paper 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 his 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. Regulations Adopted By City Council: The city council may adopt such regulations as in its opinion are necessary to implement this chapter and its objectives.

*Adopted by Ord. 1976 Code §§ 10-415, 10-417, 10-419, 10-421, 10-422, 10-423 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

Chapter 6: LITTER; HANDBILLS

4-6-1: DEFINITIONS

4-6-2: HANDBILLS AND POSTERS; RESTRICTED ACTIVITY

4-6-3: LITTER REGULATIONS

4-6-4: HANDBILL REGULATIONS

4-6-1: DEFINITIONS

For the purpose of this chapter:

AUTHORIZED RECEPTACLE: A public or private litter storage and collection receptacle.

COMMERCIAL HANDBILL: 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:

- A. Which advertises for sale any merchandise, product, commodity or thing;
- B. Which 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. Which 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 clause 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 clause 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 law of this state, or under any ordinance of the city, or;
- D. Which, 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.

GARBAGE: 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.

LITTER: "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.

NEWSPAPER: Any newspaper of general or local circulation or any periodical or current magazine regularly published with not less than four (4) issues per year and sold to the public.

NONCOMMERCIAL HANDBILL: 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.

PARK: A park, reservation, playground, beach, recreation center or any other public area in the city, owned or used by the city.

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

RUBBISH: 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.

VEHICLE: 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.

Adopted by Ord. 1976 Code § 10-431 on 1/1/1976

4-6-2: HANDBILLS AND POSTERS; RESTRICTED ACTIVITY

No person or business shall post, stick, stamp, 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 lamppost, electric 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 state, and the ordinances of the city.

Adopted by Ord. 1976 Code § 10-449A on 1/1/1976

4-6-3: LITTER REGULATIONS

- A. **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 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 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 Clear:** 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. **Thrown From Vehicles:** 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. **Unsecured Truck Loads; Debris From Tires:** 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. **Befouling 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. **Lakes And Fountains:** 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. **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. **Vacant Lots:** No person shall throw or deposit litter on any open or vacant private property, whether or not owned by such person.

4-6-4: 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 section 1-4-1 of this code 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 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 noncommercial handbill to any occupant of a vehicle who is willing to accept it.
- 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.
- F. Exception For 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.
- G. Posting Notice 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.

Adopted by Ord. 1976 Code §§ 10-440, 10-441, 10-442, 10-443, 10-444, 10-445, 10-446 on 1/1/1976

Amended by Ord. 2001 Code on 1/1/2001

Chapter 7: OFFENSIVE BUSINESSES AND FACILITIES

4-7-1: DEFINED

4-7-2: PERMIT REQUIRED

4-7-3: APPLICATION FOR PERMIT

4-7-4: ISSUANCE OF PERMIT

4-7-5: EXISTING BUSINESSES AND FACILITIES

4-7-1: DEFINED

"Offensive businesses", within the meaning of this chapter, shall include, but not be 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.

Adopted by Ord. 1976 Code § 10-241B on 1/1/1976

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 of the city without first filing an application for a permit to do so with the city recorder.

Adopted by Ord. 1976 Code § 10-241A on 1/1/1976

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.

Adopted by Ord. 1976 Code § 10-241C on 1/1/1976

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 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 his 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 power to revoke or modify the permission to operate and maintain the business in such a manner as it deems necessary for the public good.

4-7-5: 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.

Adopted by Ord. 1976 Code § 10-243 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001

Chapter 8: RECOVERY OF AGGRAVATED EMERGENCY COSTS

4-8-1: PURPOSE

4-8-2: DEFINITIONS

4-8-3: RECOVERY AUTHORIZATION AND PROCEDURES

4-8-4: NO ADMISSION OF LIABILITY

4-8-5: ACTION TO RECOVER EXPENSES

4-8-1: PURPOSE

This chapter establishes procedures to recover costs incurred by the city in responding to hazardous materials emergencies, aggravated fire emergencies and aggravated medical responses.

Adopted by Ord. 2002-02 on 12/11/2002

4-8-2: DEFINITIONS

AGGRAVATED FIRE EMERGENCY: A fire proximately caused by the owner or occupier of property or a structure, which presents a direct and immediate threat to public safety and requires immediate attention to mitigate the threat and fire, and

- A. Is caused by or contributed to by the failure to comply with a lawful order from any state, county or local agency, department official; or
- B. Occurs as a result of any deliberate act in violation of state or local law, or ordinance or regulation; or
- C. Is a fire that constitutes arson or reckless burning as defined by Utah code; or
- D. Is an alarm that results in a city fire unit being dispatched, and the person transmitting or causing the transmission of the alarm knows at the time of said transmission that no fire or related fire emergency exists.

AGGRAVATED MEDICAL EMERGENCY: An alarm that results in a city fire unit or city emergency medical unit being dispatched, and the person transmitting or causing the transmission of the alarm knows at the time of said transmission that there is no reasonable grounds for believing that a medical emergency exists.

CITY: Honeyville City, Utah.

EXPENSE: The actual costs of the city and costs of volunteer personnel incurred by the city including workers' compensation benefits, fringe benefits, administrative overhead, costs of equipment, cost of equipment operations, cost of materials, cost of disposal, and cost of any contract labor and materials.

HAZARDOUS MATERIALS EMERGENCY: A sudden or 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.

Adopted by Ord. 2002-02 on 12/11/2002

4-8-3: RECOVERY AUTHORIZATION AND PROCEDURES

- A. The city is hereby empowered to recover its expenses incurred by virtue of the city's response to hazardous materials emergencies, aggravated fire emergencies, or aggravated medical emergencies from any and all persons, corporations, partnerships, individuals, or other entities who caused such an emergency, pursuant to the following procedure:
 - 1. The city council of Honeyville City, or a committee or commission appointed by the city council, shall determine responsibility for the emergency or response as defined above and notify the responsible party by mail of the council's, committee's, or commission's determination of responsibility and expenses to be recovered.
 - 2. In the event the billed party or parties fails to submit fees, a commercial billing organization may be used as determined by the city council.
 - 3. The notice shall specify that the determined responsible party or parties may appeal the council's, committee's, or commission's decision to a hearing before the full city council and establish a date by which the notice of appeal shall be filed. The appeal date shall be no more than fifteen (15) days from the date of the notice.
- B. In the event the determined responsible party or parties appeals the determination, the city council shall hold a hearing to consider any issues raised by the appeal; at which hearing, the appealing party or parties and the involved department or agency shall be entitled to present evidence in support of their respective positions.
- C. After the hearing, the city council shall then issue a decision determining responsibility and assessing expenses.

Adopted by Ord. 2002-02 on 12/11/2002

4-8-4: NO ADMISSION OF LIABILITY

- A. The payment of expenses determined owing under this chapter does not constitute the following:

1. An admission of liability or negligence in a legal action for damages; or
2. A criminal fine.

Adopted by Ord. 2002-02 on 12/11/2002

4-8-5: ACTION TO RECOVER EXPENSES

In the event the party or parties determined to be responsible for the repayment of expenses fails to make full payment to the city within thirty (30) days after a final determination of any appeal to the city, or within thirty (30) days from the deadline for appeal in the event no appeal is filed, the city may initiate legal action to recover from the determined responsible party or parties the expenses determined to be owing including the city's reasonable attorney fees.

Adopted by Ord. 2002-02 on 12/11/2002

Title 5 - POLICE REGULATIONS

Chapter 1: ANIMAL CONTROL

Chapter 2: OFFENSES

Chapter 3: MINORS; CURFEW

Chapter 1: ANIMAL CONTROL

5-1-1: DEFINITIONS

5-1-2: ANIMAL CONTROL OFFICER

5-1-3: POUND

5-1-4: LICENSING REQUIREMENTS

5-1-5: CRUELTY TO ANIMALS PROHIBITED

5-1-6: VICIOUS DOGS AND ANIMALS

5-1-7: CONTROL OF RABIES AND RABID ANIMALS

5-1-8: ANIMALS AT LARGE; DRIVING ANIMALS

5-1-9: DOGS AT LARGE; PENALTY FOR VIOLATION

5-1-10: PROHIBITED ACTS AND CONDITIONS

5-1-11: IMPOUNDING

5-1-12: PENALTY

5-1-1: DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following words shall mean:

ANIMAL CONTROL OFFICER: The custodian selected by the city council to be responsible for the operation of the dog pound and responsible for the control of all animals falling within the jurisdiction of the city.

AT LARGE: Shall be intended to mean that every person who has in his possession or under his control any dog or bitch within a low density residential zone within the city shall keep any such dog or bitch securely locked up or securely under his control by leash or other similar device at all times, and any person who has in his possession or under his control any dog or bitch in any other area within the city shall keep any such dog or bitch securely locked up or under his control by leash or voice command or other similar device or method at all times.

DOG: Any male, neutered male, female or spayed female dog of any age.

DOG OF LICENSING AGE: Any dog which has been weaned or attained the age of six (6) months.

IMPOUNDED: Having been received into the custody of the city pound or into the custody of any authorized agent or representative of the city.

KENNEL: Premises where three (3) or more dogs at least six (6) months old are raised, kept, housed or boarded, or premises which are regularly used in the commercial business of breeding dogs. A minimum of five (5) acres is required for a kennel.

OWNER: When applied to the proprietorship of a dog, shall mean any person or persons, firm, association or corporation owning, keeping or harboring a dog.

POUND: 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 chapter or otherwise.

UNLICENSED DOG: A dog for which the license for the current year has not been paid, or to which the tag provided for in this chapter is not attached.

VICIOUS ANIMAL: An animal that has bitten a person without provocation.

VICIOUS DOG:

- A. Any dog which, in a vicious or terrorizing manner, approaches any person or domestic animal in apparent attitude of attack;
- B. Any dog with a known propensity, tendency or disposition to attack, to cause injury or to otherwise endanger the safety of human beings or animals; or
- C. Any dog which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal on public or private property.

WILD ANIMALS: Any animal of a species, however domesticated, that in its natural life is wild, including:

- A. Alligators and crocodiles;
- B. Bears (ursidae); all bears, including grizzly bears, brown bears, black bears, etc.;
- C. Cat family (felidae); all cats, including cheetahs, cougars, leopards, lions, lynxes, panthers, mountain lions, tigers, wildcats, etc., except the commonly accepted domesticated cats;
- D. Dog family (canidae); all dogs, including wolves, foxes, coyotes, dingoes, etc., except the commonly accepted domesticated dogs;
- E. Porcupines (erethizonntidae);
- F. Primates (hominidae); all subhuman primates;
- G. Raccoons (prosynnidae); all raccoons, including eastern raccoons, desert raccoons, ring tailed cats, etc.;
- H. Skunks;
- I. Venomous fish and piranha;
- J. Venomous snakes or lizards;
- K. Weasels (mustelidae); all, including weasels, martens, wolverines, ferrets, badgers, otters, ermine, mink, mongooses, etc., except that persons raising members of this family as a business for their pelts shall not be prohibited by this chapter.

Adopted by Ord. 97-2 on 7/14/1997

Amended by Ord. 2001 Code on 1/1/2001

Amended by Ord. 2007-02 on 7/11/2007

Amended by Ord. 2009-04 on 4/8/2009

5-1-2: ANIMAL CONTROL OFFICER

- A. Created: The position of animal control officer is hereby created.
- B. Duties: The animal control officer shall perform the following duties:
 1. Carry out and enforce the provisions of this chapter.
 2. Take into his possession and impound all strays running at large and dispose of the same as hereinafter provided.
 3. Enforce the licensing of and control all dogs within the city as hereinafter provided.
 4. File complaints in the courts against any person failing to comply with the provisions of this chapter and obtain licenses when required thereunder.
 5. Capture and secure all dogs found running at large contrary to the provisions of this chapter and impound such dogs in a humane manner.
 6. Provide for a good and sufficient pound in which all animals duly committed to his charge or otherwise impounded by him shall be maintained.
 7. 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, the costs expended for the maintenance of the animal and amounts received arising out of maintenance or sale of animals.
- C. Shall Charge Fees For Services: The animal control officer shall charge, and the owners of animals taken into his possession for impound disposal or other services shall pay, such fees and charges for services performed by the pound or animal control officer as the city council shall establish from time to time by resolution. All fees received by the animal control officer shall be paid over to the city treasurer.
- D. Interference With Animal Control Officer Prohibited: It shall be unlawful for any person to interfere, molest, hinder or obstruct the animal control officer or any of his authorized representatives in the discharge of their duties as herein prescribed.

*Adopted by Ord. 1976 Code §§ 13-211, 13-212, 13-213, 13-214 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

5-1-3: POUND

The city council may contract with some humane person as animal control officer, with an adjoining municipality or with the county for the purpose of providing suitable premises and facilities to be used by the city as the pound. It shall be maintained in some convenient location and shall be sanitary and so operated as to properly feed, water and protect the animals from injury.

*Adopted by Ord. 1976 Code § 13-251 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

5-1-4: LICENSING REQUIREMENTS

- A. License Required; Fee For License: All dogs which have been weaned or which have attained the age of two (2) months and which are kept, harbored or maintained by any person in the city shall be licensed and registered. Dog licenses shall be issued by the city recorder or animal control officer upon payment of a license fee in such amount as established by resolution of the city council.
- B. Kennels:
 1. License Required; Fee For License: Any premises where three (3) or more dogs over the age of four (4) months are owned, kept, harbored or maintained shall be considered to be operating a dog kennel and shall be required to obtain a kennel license and pay an annual kennel license fee in such amount as established by resolution of the city council.
 2. Conditional Use Permit: In order to obtain a kennel license, the owner responsible for such kennel shall first obtain a conditional use permit in accordance with the city's planning and zoning ordinances. The owner shall state at the time application is made for such license, his name and address and the sex, breed and color of each dog owned or kept by him. 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.
- C. Exceptions:
 1. Temporary Nonresidents: The provisions of this section shall not be intended to apply to dogs whose owners are nonresidents temporarily within the city, nor to dogs brought to the city for the purpose of participating in any dog show.
 2. Specially Trained Dogs: Dogs used as guides for blind persons and commonly known as seeing eye dogs shall be licensed and registered as other dogs hereinabove provided, except that the owner or keeper of such dog shall not be required to pay any fee therefor.
- D. License Tag:
 1. Issuance: Upon payment of the license fee, the city recorder shall issue to the owner a license certificate and a metallic tag for each dog so licensed. The tag shall be changed every 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, except those operating a kennel, shall provide each dog with a collar to which the license tag shall be affixed, and shall see that the collar and tag are constantly worn. It shall be unlawful to deprive a registered dog of its collar and/or tag.
 2. Duplicate Tag: In case a dog tag is lost or destroyed, a duplicate will be issued by the city recorder upon presentation of a receipt showing the payment of the license fee for the current year and the payment of a fee in such amount as established by resolution of the city council.
 3. Tag Not Transferable Or Refundable: 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 or the owner leaving the city before expiration of the license period.

*Adopted by Ord. 1976 Code § 13-243 on 1/1/1976
Amended by Ord. 97-2 on 7/14/1997
Amended by Ord. 2001 Code on 1/1/2001*

5-1-5: CRUELTY TO ANIMALS PROHIBITED

It shall be unlawful for any person to:

- A. Treat In Cruel And Inhumane Manner: Overdrive, overload, drive when overloaded, overwork, torture, cruelly beat, mutilate or needlessly kill, or carry or transport in any vehicle or other conveyance in a cruel and inhuman manner, any animal or cause any of these acts to be done.
- B. Abandon: Abandon or turn out at large any sick, diseased, or disabled animal, but such animal shall, when rendered useless by reason of sickness or other disability, be humanely destroyed by the owner thereof and its carcass disposed of in such manner as to create no nuisance or hazard to health.
- C. Kill Or Poison: Wilfully kill any domestic animal, or to administer poison to any such animal or to expose any poisonous substance with the intent that it shall be taken by any such animal.
- D. Fail To Provide Care: Fail to provide any animal in his charge or custody with necessary sustenance, drink and protection from the elements or cause any of these acts to be done.
- E. Intentionally Exhibit: Intentionally exhibit any stud, horse or bull or other animal indecently, or let any male animal to any female animal for the

purpose of providing entertainment or viewing to any person.

- F. Maintain Place Of Exhibition: Maintain any place where fowl or any animals are suffered to fight upon exhibition or for sport upon any wager.

*Adopted by Ord. 1976 Code §§ 13-222, 13-224, 13-231A, 13-231B, 13-231C, 13-231D on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

5-1-6: VICIOUS DOGS AND ANIMALS

- A. Unlawful To Own And Possess: It shall be unlawful for any person to own and possess a vicious dog within the city. Whenever a prosecution for this offense is commenced under this section, the dog so involved may not be redeemed, pursuant to the provisions of this chapter, while awaiting final decision of the court as to the disposition to be made of such dog.
- B. Disposition After Conviction Of Offense: Upon the trial of any offense under this section, the court may, upon conviction and in addition to the usual judgment of conviction, order the animal control officer or other authorized personnel of the city to put the dog to death or may order such other disposition of the dog as will protect the inhabitants of the city.
- C. Nuisance Declared: Any dog which has bitten a person without provocation or any dog that has a known propensity to attack or bite human beings is hereby declared to be a nuisance and a menace to the public health and safety and the dog may be taken up and impounded as provided in subsection A of this section.
- D. Breeds Tending To Be Vicious; Requirements For Maintaining: Certain breeds of dogs which by their unique characteristics, owner training and instruction, or mistreatment, have a propensity to be vicious. These breeds include, but are not limited to, American Staffordshire Terrier (pit bull), and any other dog or breed of dog determined to have a propensity to be vicious. The dogs identified in this subsection:
1. License, Fee Required: Must be licensed under the procedures and fees set forth in this chapter.
 2. Confinement: Must be kept in a fenced yard, dog run or other structure which is at least six feet in height, by six feet wide, by ten feet in length (6' x 6' x 10').
 3. Leash, Muzzle: Must be on a leash and properly muzzled when they are out of a fenced yard.
 4. Requirements Met Prior To Licensing: These requirements must be met before a dog license will be issued.
- E. At Large, Without Care: It is unlawful for the owner of a vicious animal, knowing its propensities, to wilfully allow it to go at large or to keep it without ordinary care. Ordinary care in this instance shall mean to restrain and/or confine the animal in such a manner that it will not pose a danger to people, animals and property engaged in legal activity in the city.
- F. Wild Animals: It shall be unlawful for any person to keep or possess any "wild animal" as defined in section 5-1-1 of this chapter, which is fierce, dangerous, noxious or naturally inclined to do harm; except a person may keep or possess such an animal if protective devices adequate to prevent such animal from escaping or injuring the public are provided.
- G. Prohibited Or Protected Species: It shall be unlawful for any person to keep an animal of a species prohibited or protected by title 50 of the Code of Federal Regulations or by a regulation or law of the state.

Adopted by Ord. 97-2 on 7/14/1997

5-1-7: CONTROL OF RABIES AND RABID ANIMALS

- A. Rabies Vaccination Required: It shall be unlawful for the owner of any dog to suffer, allow or permit such dog to be or go upon any sidewalk, street, alley, public place or square within the city without first having had such dog vaccinated against rabies, as provided in subsection B of this section, within the past two (2) years, and without there being on such dog a collar or harness with a license tag thereon showing that such dog has been so vaccinated.
- B. Vaccination By Licensed Veterinarian; Exception: Every owner of any dog over the age of six (6) months within the city shall have the dog vaccinated against rabies by a duly licensed veterinarian, shall secure from the veterinarian a certificate thereof, and shall attach to the collar or harness, which such person is hereby required to place upon the dog, a tag showing that such vaccination has been done; provided, that the city council may, by resolution, provide that the owners of any dog may themselves purchase serum and vaccinate their own dogs. The resolution shall also prescribe the conditions with which the owner must comply to obtain the tag herein required.
- C. Reporting Of Rabid Animals: Anyone having knowledge of the whereabouts of an animal known to have or suspected of having rabies shall report the fact immediately to the health officer. The health officer shall likewise be notified of any person or animal bitten by a rabid or suspected rabid animal.
- D. Biting Animal Quarantined: 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 placed in confinement under observation of a veterinary hospital or the city pound and shall not be killed or released until at least fourteen (14) days after the biting or injury has occurred in order to determine whether or not the animal has rabies. If the animal dies or has been killed, its head shall be removed and immediately taken to the State Health Laboratory to be examined for rabies.
- E. Bitten Animal Quarantined: 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 in a suitable place approved by the animal control officer for a period of one hundred twenty (120) days or destroyed.

*Adopted by Ord. 1976 Code §§ 13-228, 13-229, 13-230, 13-247, 13-248 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

5-1-8: ANIMALS AT LARGE; DRIVING ANIMALS

No cattle, horses, mules, sheep, goats or swine shall be allowed to run at large or to be herded, picketed or staked out upon any street, sidewalk or other public place within the limits of the city, and all such animals so found may be impounded. Nothing herein contained shall be so construed as to prevent any person from driving cows, horses, mules or other animals from outside the city limits to any enclosure within the city limits or from any enclosure in the city to a place outside the city or from one enclosure to another within limits of the city.

Adopted by Ord. 1976 Code § 13-221 on 1/1/1976

5-1-9: DOGS AT LARGE; PENALTY FOR VIOLATION

- A. Unlawful Acts: It shall be unlawful:
1. For the owner or keeper of any dog to permit such dog to run at large.
 2. For an owner of a dog to permit such dog to go upon or be upon the private property of any person without the permission of the owner or person entitled to the possession of such private property.
- B. Violation Regardless Of Precautions: The owner of any dog running at large shall be deemed in violation of this section, regardless of the precautions taken to prevent the escape of the dog and to prohibit it from running at large.
- C. Declared Nuisance: Any dog running at large in violation of the provisions of this section is hereby declared to be a nuisance and a menace to the

public health and safety, and the dog shall be taken up and impounded as provided in this chapter.

Adopted by Ord. 1976 Code § 13-244 on 1/1/1976

5-1-10: PROHIBITED ACTS AND CONDITIONS

- A. **Disposition Of Dead Animals:** Violation: The owner of any animal or fowl that has died or been killed shall remove or bury the carcass of such animal within ten (10) hours after its death; provided, that no horse, cow, ox or other animal shall be buried within the closely inhabited portions of the city. A violation of this subsection is a Class C misdemeanor and subject to penalty as provided in section [1-4-1](#) of this code.
- B. **Diseased Animals:** It is a Class C misdemeanor and subject to penalty as provided in section [1-4-1](#) of this code for any person to bring into the city for sale or have in his possession with intent to sell or offer for sale, any animal which has a communicable disease or which has been exposed to or which is liable to carry infection from a communicable disease.
- C. **Diseased Animals For Human Consumption:** It is a Class C misdemeanor and subject to penalty as provided in section [1-4-1](#) of this code for any person to bring into the city for sale or to sell, or offer for sale any cattle, sheep, swine, fish, game, fowl or poultry which is diseased, unsound, and unwholesome or which for any other reason is unfit for human food.
- D. **Female Dogs In Heat:** The owner of a female dog in heat shall cause such dog to be penned or enclosed in such a manner as to preclude other dogs from attacking such female dog or being attracted to such female dog so as to create a public nuisance. Any dog found in violation of the provisions of this subsection is hereby declared to be a nuisance and a menace to the public health and safety, and the dog may be taken up and impounded as provided in this chapter.
- E. **Harbor Stray Dogs:** It shall be unlawful for any person to harbor or keep within the city any lost or stray dog. Whenever any dog shall be found which appears to be lost or stray, it shall be the duty of the finder to notify the city recorder or animal control officer, who shall impound such dog for running at large contrary to the terms of this chapter. If there shall be attached to such dog a license tag for the then current fiscal year, the animal control officer shall notify the person to whom such license was issued, at the address given on the license.
- F. **Loud Or Offensive Animals:** 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. Any dog found in violation of the provisions of this subsection is hereby declared to be a nuisance and a menace to the public health and safety, and the dog may be taken up and impounded as provided in this chapter; provided, that this subsection shall not apply to the city dog pound.
- G. **Trespassing Animals:** It shall be unlawful for any owner or caretaker of any domestic fowl or animal to permit such fowl or animal to trespass upon the premises of another person.

Adopted by Ord. 1976 Code §§ 13-223, 13-225, 13-226, 13-227, 13-245, 13-246, 13-249 on 1/1/1976

Amended by Ord. 2001 Code on 1/1/2001

5-1-11: IMPOUNDING

- A. **Duty Of Official To Impound:** It shall be the duty of every police officer or other designated official to apprehend any dog found running at large, not wearing his tag or which is in violation of this chapter and to impound such dog in the pound or other suitable place. The animal control officer, or some other designated official, upon receiving any dog, shall make a complete registry, entering the breed, color and sex of such dog and whether licensed. If licensed, he shall enter the name and address of the owner and number of the license.
- B. **Interference With Impounding Prohibited:** It shall be unlawful for any person to hinder, delay, interfere with, or obstruct the animal control officer or any of his assistants while engaging in capturing, securing or taking to the dog pound any dog or dogs liable to be impounded, or to break open or in any manner directly or indirectly aid, counsel or advise the breaking open of any dog pound or ambulance, wagon or other vehicle used for the collecting or conveying of dogs to the dog pound.
- C. **Records Maintained:** The animal control officer shall keep a record of each animal impounded by him, the date of receipt of such animal, the date and manner of its disposal and if redeemed, reclaimed or sold, the name of the person by whom redeemed, reclaimed or purchased, the address of such person, the amounts of all fees received or collected for or because of the impounding, reclaiming or purchasing thereof, together with the number of any tag and the date of any tag exhibited or issued upon the redemption or sale of such animal.
- D. **Redemption Of Impounded Dogs:** Any dog impounded as a licensed or unlicensed dog may be redeemed and taken from such pound by the owner or any authorized person, upon exhibiting to the animal control officer or person having charge of said pound, a certificate of registry as provided in subsection A of this section, showing that the license imposed by this chapter has been paid for such dog, a receipt showing that all fines imposed for violation of this chapter have been paid, and upon paying the person in charge of the pound an impounding fee in such amount as set by resolution of the city council. All impounded dogs not redeemed within a specified number of days, as established by resolution of the city council, shall be sold for the best price obtainable at either private or public sale, and all monies received from such sales shall be paid daily to the city treasurer. All dogs that are not sold or redeemed in the required time shall be disposed of in a humane manner.
- E. **Disposition Of Unclaimed Or Infected Dogs:** All impounded dogs not redeemed within a specified number of days, as established by resolution of the city council, may be humanely destroyed or sold to the person first making written request for purchase at such price as may be deemed agreeable. In the case of dogs severely injured or having contagious disease other than rabies and which in the animal control officer's judgment are suffering and recovery is doubtful, the animal control officer may humanely destroy the dog without awaiting the specified period.

Adopted by Ord. 1976 Code §§ 13-252, 13-253, 13-254, 13-255, 13-256 on 1/1/1976

Amended by Ord. 2001 Code on 1/1/2001

5-1-12: PENALTY

Unless otherwise provided, any owner or keeper of any dog or any other person found to be in violation of sections [5-1-4](#), [5-1-6](#), [5-1-7A](#) through B, [5-1-9](#), [5-1-10D](#) and F of this chapter is guilty of an infraction and subject to penalty as provided in section [1-4-1](#) of this code.

Adopted by Ord. 97-2 on 7/14/1997

Amended by Ord. 2001 Code on 1/1/2001

Chapter 2: OFFENSES

5-2-1: CRIMINAL CODE ADOPTED BY REFERENCE

5-2-1: CRIMINAL CODE ADOPTED BY REFERENCE

- A. **Specific Sections:** The following sections of Utah Code Annotated, as amended, are hereby adopted and made a part of this code as though fully set forth herein:

32A-12-104

32A-12-201 through 221

76-1-101 through and including 601

76-2-101 through and including 406
76-3-101, 104, 105, 201, 202, 204, 205 and 208
76-3-301 through 303
76-3-401
76-4-101 through 302
76-5-102, 106, 108
76-6-101, 104, 106, 205, 206
76-6-401 through 412
76-6-601 through 607
76-8-301, 305, 306, 307 and 309
76-9-101 through 105
76-9-201 through 202
76-9-701 through 702
76-10-101 through 112
76-10-505, 506 and 508

- B. Code To Be Current: Any amendments, modifications, supplements or later editions of said code shall constitute the code then in effect under this section; provided, however, that before any later editions shall take effect, the city council by resolution shall certify that the later editions are available and three (3) copies of all amendments, modifications or supplements shall be filed for examination and use by the public in the office of the city recorder.

Adopted by Ord. 2001 Code on 1/1/2001

Chapter 3: MINORS; CURFEW

5-3-1: ESTABLISHED

5-3-2: RESPONSIBILITY OF PARENTS, GUARDIANS

5-3-1: ESTABLISHED

No person under the age of eighteen (18) years shall be or remain upon any of the streets, alleys or public places or vacant lots at night between the hours of eleven fifty nine o'clock (11:59) P.M. and four o'clock (4:00) A.M. following, unless such person is accompanied by a parent, guardian or other person having legal custody of such minor person, or unless the employment or lawful business of such minor makes it necessary to be upon the streets, alleys or public places between such specified hours, in which event such minor person shall obtain a permit from the city's law enforcement agency to be upon the streets, alleys or public places during such hours. On any night when school, civil or church functions are taking place, the hours of curfew shall be eleven fifty nine o'clock (11:59) P.M. to four o'clock (4:00) A.M. following, in order to provide adequate time to attend such functions provided for minor persons. Where a permit is required from the city's law enforcement agency under this section, such permit shall be kept upon the person and it shall be unlawful to be upon the streets, alleys or public places within such curfew hours without such permit.

Adopted by Ord. 1976 Code § 13-312 on 1/1/1976

Amended by Ord. 2001 Code on 1/1/2001

5-3-2: RESPONSIBILITY OF PARENTS, GUARDIANS

No person, guardian or other person having legal charge or custody of any person under eighteen (18) years of age shall allow or permit any such person or child, ward or other person under such age, while in such legal custody, to go or be in or upon any of the streets, alleys or public places when such going or being in or upon such streets, alleys or public places would be in violation by such minor of any provision of section [5-3-1](#) of this chapter.

Adopted by Ord. 1976 Code § 13-313 on 1/1/1976

Amended by Ord. 2001 Code on 1/1/2001

Title 6 - MOTOR VEHICLES AND TRAFFIC

Chapter 1: UNIFORM TRAFFIC CODE; GENERAL PROVISIONS

Chapter 1: UNIFORM TRAFFIC CODE; GENERAL PROVISIONS

6-1-1: TRAFFIC CONTROL

6-1-2: 6900 NORTH STREET; LIMITATIONS

6-1-3: PARKING REGULATIONS

6-1-4: WINTER PARKING

6-1-1: TRAFFIC CONTROL

- A. Traffic Code Adopted: The Uniform Traffic Code, current edition, as compiled, prepared and published as a code in book form by the Utah Department of Public Safety and the Utah Municipal League (Utah League of Cities and Towns), three (3) copies of which have been filed for use and examination by the public in the office of the city recorder, hereby is approved and adopted as the traffic code for the city, except as such code may be altered or modified by the ordinances of the city.
- B. Definitions: Unless the context otherwise requires, all references in the traffic code to:
1. The "State Road Commission or State Department of Transportation" shall mean the city and its officers, departments, agencies and agents.
 2. "Local authorities" shall mean the city council.
 3. The "Department of Public Safety of the State of Utah" shall mean the city's law enforcement agency or its agents.
- C. Prima Facie Speed:
1. Streets Posted: When appropriate traffic-control or regulatory signs giving notice of speeds are posted, the prima facie maximum speed limits designated upon said signs shall apply to the appropriate streets or portions of streets so posted.
 2. Streets Not Posted: In the absence of any speed limit sign designating a speed limit applicable thereto, the prima facie speed limit shall be twenty five (25) miles per hour.
- D. Through Streets Designated; Stop Or Yield Intersections: When appropriate traffic-control or regulatory signs are posted at entrances to intersections identifying them as stop or yield entrances, such streets are hereby declared to be stop entrances and yield entrances as designated by said signs.
- E. Angle Parking: When appropriate traffic-control or regulatory signs are posted permitting angle parking, angle parking shall be permitted on the streets or parts of streets so posted at the angle designated by the sign.
- F. Designations Posted: The city council shall designate the places at which appropriate traffic-control devices or regulatory signs shall be placed relating to maximum speed limits, angle parking, through streets, stop and yield intersections and other regulations governing traffic.
- G. Penalty: Any person violating, causing or permitting violation of any provision of this section shall be guilty of a Class C misdemeanor. Notwithstanding other language or provisions in the Uniform Traffic Code hereby adopted, any violator of this section, upon conviction, shall be subject to penalty as provided in section [1-4-1](#) of this code.

Adopted by Ord. 1976 Code §§ 11-322, 11-323, 11-324, 11-325, 11-326 on 1/1/1976

Amended by Ord. 87-2 on 6/29/1987

Amended by Ord. 2001 Code on 1/1/2001

6-1-2: 6900 NORTH STREET; LIMITATIONS

- A. Speed And Weight:
1. Specified: No truck or other vehicle exceeding ten thousand (10,000) gross vehicle weight (GVW) shall exceed twenty (20) miles per hour on 6900 North Street between the Utah State Highway 38 and the canal located approximately three and one-half (3¹/₂) blocks east of said highway.
 2. Signs Posted: The city council shall cause to be posted speed limit signs in compliance with this subsection along said highway, pursuant to the standards established by the state.
 3. Penalty: A violation of this subsection shall be a Class C misdemeanor, subject to penalty as provided in section [1-4-1](#) of this code.
- B. Number And Weight:
1. Specified: Only one truck or other motor vehicle exceeding ten thousand (10,000) gross vehicle weight (GVW) shall be operated on the city street known as 6900 North between the west side of the Utah State Highway 38 and the canal located approximately three and one-half (3¹/₂) blocks east of said highway.
 2. First Come, First Serve: Trucks or other vehicles exceeding ten thousand (10,000) gross vehicle weight (GVW) shall have the right to use said street on a first come, first serve basis; provided, that when traffic from opposite directions is waiting to use said street, use shall be on an alternating direction basis and when traffic entering from a side street is waiting to use said street, it shall give way to all east and west traffic.
 3. Penalty: Violation of this subsection shall be a Class C misdemeanor, subject to penalty as provided in section [1-4-1](#) of this code.

Adopted by Ord. 82-2 on 7/7/1982

Amended by Ord. 82-3 on 7/7/1982

Amended by Ord. 2001 Code on 1/1/2001

6-1-3: PARKING REGULATIONS

- A. Signs; Installation: The city council may authorize or direct any person employed by the city to erect or install any sign or traffic-control device required to enforce the provisions of this section.
- B. Properly Posted Areas: It shall be a Class C misdemeanor, subject to penalty as provided in section [1-4-1](#) of this code, to park or leave standing at any time a motor vehicle, as defined in the Uniform Traffic Code adopted by the city, in any of the places prohibited by the city, when properly posted, except when necessary to avoid interference with other traffic or in compliance with the directions of a police officer or traffic-control device.
- C. Blocking Streets Or Highways: In addition to the parking provisions contained in the Uniform Traffic Code, as adopted by the city, it shall be a Class C misdemeanor, subject to penalty as provided in section [1-4-1](#) of this code, 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. Wilfully 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. Wilfully 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.

D. Unlawful Parking:

1. **Parking At Curb:** No motor vehicle shall be parked with the left side of the vehicle next to the curb, except on one-way streets. It shall be unlawful to stand or park any motor vehicle in a street other than parallel with the curb and with the two (2) right wheels of the vehicle within twelve inches (12") of the regularly established curb line, except on those streets which have been marked for angle parking; then vehicles shall be parked at the angle to the curb indicated by such marks.
2. **Vehicles For Sale:** It shall be unlawful to park any vehicle on any street for the purpose of displaying it for sale, or to park any vehicle from which merchandise is peddled on any business street.
3. **Alleys:** No person shall park a motor vehicle within an alley in such manner or under such conditions as to leave less than ten feet (10') of the width of the roadway available for the free movement of vehicular traffic. No person shall stop, stand or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property.
4. **Time Limit; Impoundment:** It shall be an infraction, subject to penalty as provided in section [1-4-1](#) of this code, for any person to park or leave standing on any public road, street, alley or city property any motorized vehicle, mobile home, house trailer, horse trailer, other trailers or equipment, for twelve (12) or more consecutive hours. Any motorized vehicle, mobile home, house trailer, horse trailer or equipment so parked or left standing may be impounded or removed by the city's law enforcement agency. For purposes of impoundment and removal, the city's law enforcement agency may impound and remove any motorized vehicle, mobile home, house trailer, horse trailer or equipment which reasonably appears to have remained unmoved for twelve (12) consecutive hours. The cost of impoundment and removal shall be charged to the owner or any person who claims the impounded motorized vehicle, mobile home, house trailer, horse trailer or equipment.

*Adopted by Ord. 1976 Code §§ 11-341, 11-342, 11-343, 11-344 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

6-1-4: WINTER PARKING

- A. **Obstructing Snow Removal Prohibited:** It shall be unlawful for an individual to park or leave unattended any vehicle on or near any street of the city in such a way that it will obstruct or interfere in any way with the removal of snow from said street.
- B. **Impoundment:** Any vehicle parked along any street in violation of subsection A of this section shall, at the direction of the city agent in charge of snow removal, be towed away to an impoundment area and the owner thereof shall pay all costs and expenses of towing and impoundment before being allowed to retake said vehicle.
- C. **Penalty:** Any individual who shall violate the terms and provisions of subsection A of this section shall be guilty of a Class C misdemeanor and shall, upon conviction thereof, be subject to penalty as provided in section [1-4-1](#) of this code.

*Adopted by Ord. 1976 Code § 11-345 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

Title 7 - PUBLIC WAYS AND PROPERTY

Chapter 1: STREETS, SIDEWALKS AND PUBLIC WAYS

Chapter 2: STREET AND SIDEWALK CONSTRUCTION

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Chapter 1: STREETS, SIDEWALKS AND PUBLIC WAYS

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7-1-1: DEPARTMENT OF STREETS

- A. Creation: There is hereby created a department of streets, which shall have general supervision of streets, sidewalks, bridges and other public ways.
- B. Superintendent: The department shall be under the direction and control of the superintendent of streets.
- C. Powers And Duties: The department shall:
 - 1. Have charge 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 storm, flood, drainage or irrigation waters.
 - 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. Repair, or cause to be repaired, all defects coming to the department's attention and take reasonable precautions to protect the public from injuries due to such defects pending their repair.

Adopted by Ord. 1976 Code §§ 11-311, 11-312 on 1/1/1976

7-1-2: REMOVAL OF SNOW

- A. Failure To Remove Unlawful: It shall be unlawful for the owner, occupant, lessor 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 thereon within a reasonable time after such snow, hail or sleet has fallen. In the case of a storm between the hours of five o'clock (5:00) P.M. and six o'clock (6:00) A.M., such sidewalks shall be cleaned before nine o'clock (9:00) A.M. of the same day.
- 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.

Adopted by Ord. 1976 Code § 11-361 on 1/1/1976

7-1-3: OBSTRUCTIONS IN STREETS

It shall be unlawful for any person owning, occupying or having control of any premises to place or permit to be placed upon or in the sidewalk, parking area, gutter or on the half of the street next to such premises:

- A. Refuse: Any broken ware, glass, filth, rubbish, sweepings, refuse matter, ice, snow, water, garbage, ashes, tin cans or other like substances.
- B. Building Materials: Any wagons, lumber, wood boxes, fencing, building material, dead trees, tree stumps, merchandise or other thing which shall obstruct such public street, gutter, parking area or sidewalk, or any part thereof, or the passage over and upon the same, or any part thereof, except as expressly authorized by ordinance, without the permission of the city council first had and obtained.
- C. Permanent Or Temporary Structures: Any permanent or temporary structure, mechanism, device, vehicle or other thing of any kind or character, except trees planted pursuant to the provisions of applicable ordinances.

Adopted by Ord. 1976 Code § 11-362 on 1/1/1976

7-1-4: OPENINGS IN STREETS; DOORS OBSTRUCTING

- A. Cellars: It shall be unlawful for the owner or occupant of any building having a cellar which opens upon any street or sidewalk to fail to keep the door or other covering in good repair and safe for the passage of the customary traffic on the street or sidewalk. If the owner or occupant of any such building shall neglect or refuse to repair properly any such door or covering within twenty four (24) hours after notice from the superintendent of streets to do so, the superintendent shall forthwith cause such repairs to be made at the expense of the owner or occupant.
- B. Coal Holes: It shall be unlawful to construct or maintain coal holes or other openings in streets or sidewalks, except with the special permission of the city council, and under the direction and supervision of the superintendent of streets.
- C. 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 (2') over or upon the sidewalk beyond the property line.

Adopted by Ord. 1976 Code §§ 11-363, 11-364 on 1/1/1976

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 of such person, to be discharged upon the surface of any sidewalk.

Adopted by Ord. 1976 Code § 11-365 on 1/1/1976

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 lead, drive or ride any animal upon any sidewalk, except across a sidewalk at established crossings.
- B. Businesses To Keep Clean: It shall be unlawful for any owners or occupants of any place of business to refuse, neglect or fail to cause the sidewalk abutting thereon to be swept or cleaned each morning before the hour of nine o'clock (9:00) A.M.
- 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 parking area, street or sidewalk beyond two feet (2') 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 forty eight (48) hours and when participated in by a majority of firms seeking approval in their business areas. 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 (6') passageway for pedestrians.
- D. 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 he may be receiving or delivering, without leaving a six foot (6') 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 four (4) hours.
- E. Playing: Every person who obstructs the sidewalk or street by playing any game or engaging in any activity which obstructs the free travel thereon is guilty of an infraction and subject to penalty as provided in section [1-4-1](#) of this code.
- F. Congregating: It is an infraction and subject to penalty as provided in section [1-4-1](#) of this code for any person to congregate about or upon any sidewalks, 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.

Adopted by Ord. 1976 Code §§ 11-366, 11-367, 11-368, 11-369, 11-370, 11-371 on 1/1/1976

Amended by Ord. 2001 Code on 1/1/2001

7-1-7: ANIMALS ON STREETS

- A. Permit Required: Every person who drives any herd of sheep or band of horses, cattle or other animals upon any public street or highway without first obtaining a permit from the city's law enforcement agency so to do is guilty of an infraction and subject to penalty as provided in section [1-4-1](#) of this code.
- B. Permission Required: No person shall drive livestock through the city upon streets not designated for that purpose, except upon permission and according to the direction of the city's law enforcement agency.

Adopted by Ord. 1976 Code § 11-331 on 1/1/1976

Amended by Ord. 2001 Code on 1/1/2001

Chapter 2: STREET AND SIDEWALK CONSTRUCTION

7-2-1: PERMIT REQUIRED; INSPECTION

7-2-2: CONFORM TO ESTABLISHED SPECIFICATIONS

7-2-3: CHANGING EXISTING CONSTRUCTION

7-2-4: BUILDING MATERIALS IN STREET; PERMIT

7-2-5: MIXING CONCRETE ON PAVED STREETS OR SIDEWALKS; PERMIT

7-2-6: OVERFLOWING OF WATER

7-2-7: IRRIGATION DITCHES

7-2-8: REMOVAL OF EARTH

7-2-1: PERMIT REQUIRED; INSPECTION

- A. Required: No person, either as owner, agent, servant, contractor or employee, shall construct any permanent sidewalk for public use without first obtaining from the city. 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 city or its duly authorized representative.

Adopted by Ord. 1976 Code § 11-352 on 1/1/1976

Amended by Ord. 2001 Code on 1/1/2001

7-2-2: CONFORM TO ESTABLISHED SPECIFICATIONS

It shall be unlawful for any person either as owner, agent, servant, 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.

Adopted by Ord. 1976 Code § 11-351 on 1/1/1976

7-2-3: 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 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.

Adopted by Ord. 1976 Code § 11-353 on 1/1/1976

Amended by Ord. 2001 Code on 1/1/2001

7-2-4: 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 city a permit for the occupation or use of such portions of streets for such periods of time and under such limitations and restrictions as may be required by the city. Any such permit may be revoked by the city at any time when the holder thereof fails to comply with any rule or regulation under which it is granted, or when, in the opinion of the city, the public interest requires such revocation.

Adopted by Ord. 1976 Code § 11-354 on 1/1/1976

Amended by Ord. 2001 Code on 1/1/2001

7-2-5: MIXING CONCRETE ON PAVED STREETS OR SIDEWALKS; PERMIT

Unless a permit from the city has been obtained, it shall be unlawful to: (1976 Code § 11-355; amd. 2001 Code)

- 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 or 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.

*Adopted by Ord. 1976 Code § 11-355 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

7-2-6: OVERFLOWING OF WATER

It shall be unlawful for any person to allow water to overflow from any ditch, canal, well or irrigation stream onto the streets, sidewalks or property of the city.

Adopted by Ord. 1976 Code § 11-356 on 1/1/1976

7-2-7: 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 city.

*Adopted by Ord. 1976 Code § 11-357 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

7-2-8: REMOVAL OF EARTH

No person shall dig, cut or remove any sod or earth from any street or other public place without a permit from the city.

*Adopted by Ord. 1976 Code § 11-358 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

Chapter 3: EXCAVATIONS

7-3-1: ADMINISTRATIVE AUTHORITY

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7-3-23: PENALTY

7-3-1: ADMINISTRATIVE AUTHORITY

In approving or disapproving work within any public way, or permits therefor, in the inspection of such work; in reviewing plans, sketches or specifications; and generally in the exercise of the authority conferred upon him/her by this chapter, the city engineer shall act in such manner as to preserve and protect the public way and the use thereof, but shall have no authority to govern the actions or inaction of permittees and applicants or other persons which have no relationship to the use, preservation or protection of the public way.

Adopted by Ord. 98-2 on 2/11/1998

7-3-2: DEFINITIONS

As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

APPLICANT: Any person who makes application for a permit.

BUSINESS: Any place in the city in which there is conducted or carried on principally or exclusively any pursuit or occupation for the purpose of gaining a livelihood.

CITY: City of Honeyville, a municipal corporation of the state of Utah.

CITY ENGINEER: The city engineer or his/her authorized representative.

EMERGENCY: Any unforeseen circumstances or occurrence, the existence of which constitutes an immediate danger to persons or property, or which causes interruption of utility or public services.

ENGINEERING REGULATIONS, REGULATIONS, SPECIFICATIONS AND/OR DESIGN STANDARDS: The latest version of the engineering regulations, specifications, design standards or criteria published or adopted by the city engineer.

FAILURE: A work site restoration which fails to meet city engineer specifications, or which results in a deteriorated or substandard condition within the duration of the warranty period. Failure may be settlement of surfaces, deterioration of materials or other surface irregularities. Measurement of failure shall be further defined in the engineering regulations.

INFRASTRUCTURE PROVIDER: A person providing to another, for the purpose of providing telecommunication services to customers, all or part of the necessary system which uses the right of way.

OPERATOR: Any person who provides service over a telecommunications system and directly or through one or more affiliates owns a controlling interest in such system, or who otherwise controls or is responsible for the operation of such a system.

PERMITTEE: Any person which has been issued a permit and thereby has agreed to fulfill the requirements of this chapter.

PERSON: Means and includes any natural person, partnership, firm, association, provider, corporation, company, organization or entity of any kind.

PIPE DRIVEWAY: A driveway approach which uses a pipe or other means to bridge the gutter.

PRIVATE DRAIN LINE: A pipe installed solely for the transmission of water collected or generated on private property, such as drainage, spring or storm water, or condensate into the public drainage system.

PROPERTY OWNER: Person or persons who have legal title to property and/or equitable interest in the property, or the ranking official or agent of a company having legal title to property and/or equitable interest in the property.

PROVIDER: An operator, infrastructure provider, reseller, system lessee or public utility company.

PUBLIC UTILITY COMPANY: Any company subject to the jurisdiction of the Utah State Public Service Commission or any mutual corporation providing gas, electricity, water, telephone or other utility products or services for use by the general public.

PUBLIC WAY: Means and includes all public rights of way and easements, public footpaths, walkways and sidewalks, public streets, public roads, public highways, public alleys and public drainageways. It does not, however, include utility easements not within public ways of the city.

RESELLER: Refers to any person that provides service over a system for which a separate charge is made, where that person does not own or lease the underlying system used for the transmission and does not install any system in the rights of way.

RESIDENT: The person or persons currently making their home at a particular dwelling.

STORM DRAIN: A dedicated pipe, conduit, waterway or ditch installed in a right of way or easement for the transmission of storm and drainage water. This term does not include private drain lines.

SYSTEM LESSEE: Refers to any person that leases a system or a specific portion of a system to provide services.

TELECOMMUNICATIONS SYSTEM OR SYSTEM: All conduits, manholes, poles, antennas, transceivers, amplifiers and all other electronic devices, equipment, wire and appurtenances owned, leased or used by a provider located in the construction, ownership, operation, use or maintenance of a telecommunications system.

WORK SITE RESTORATION: Means and includes the restoring of the original ground or paved hard surface area to comply with engineering regulations, and includes, but is not limited to, repair, cleanup, backfilling, compaction and stabilization, paving and other work necessary to place the site in acceptable condition following the conclusion of the work, or the expiration or revocation of the permit.

*Adopted by Ord. 98-2 on 2/11/1998
Amended by Ord. 2001 Code on 1/1/2001*

7-3-3: PERMIT REQUIRED; BASIS FOR ISSUANCE

Any person desiring to perform work of any kind in a public way within the city, shall make application for a permit. The decision by the city to issue a permit shall include, among other factors determined by the city, the following:

- A. The capacity of the public way to accommodate the facilities or structures proposed to be installed in the public way;
- B. The capacity of the public way to accommodate multiple wire in addition to cables, conduits, pipes or other facilities or structures of other users of the public way, such as electrical power, telephone, gas, sewer and water;
- C. The damage or disruption, if any, of public or private facilities, improvements or landscaping previously existing in the public way;
- D. The public interest in minimizing the cost and disruption of construction from numerous excavations of the public way.

Adopted by Ord. 98-2 on 2/11/1998

7-3-4: APPLICATION FOR PERMIT; REQUIREMENTS

- A. Required; Filing: Application for a permit shall be filed with the city engineer on a form or forms to be furnished by the city. Property owners and/or tenants for whom work is being done shall be responsible for obtaining the permits, provided however, contractors may obtain the permit in the contractor's name.
- B. Eligible Persons: No person shall be eligible to apply for or receive permits to do work within the public ways of the city, save and except the following:
 - 1. Contractors licensed by the state as general contractors;
 - 2. Providers;
 - 3. Property owners installing, replacing or maintaining less than five hundred (500) square feet or one hundred (100) linear feet of sidewalk,

curb and gutter, or driveway approach, or other work approved by the city engineer, upon a portion of the public way adjacent to their residence; or

4. Persons offering a service which requires occupation of the public way, such as scaffold or staging, staging of a crane, installation or maintenance of electric signs, glass, awnings and painting or cleaning of buildings or sign boards or other structures.
- C. Denial Based On Past Performances: The city engineer may deny the issuance of permits to contractors, utility companies or other permit applicants who have shown by past performance that, in the opinion of the city engineer, they will not consistently conform to the engineering regulations, specifications, design standards or the requirements of this chapter.
- D. Engineering Plans; When Required: When necessary, in the judgment of the city engineer, to fully determine the relationship of the work proposed to existing or proposed facilities within the public ways, or to determine whether the work proposed complies with the engineering regulations, construction specifications and design standards, the city engineer may require the filing of engineering plans, specifications and sketches showing the proposed work in sufficient detail to permit determination of such relationship or compliance, or both, and the application shall be deemed suspended until such plans and sketches are filed and approved.
- E. Approval Required Prior To Commencement Of Work: It shall be unlawful for any person to commence work upon any public way until the city engineer has approved the application and until a permit has been issued for such work, except as specifically approved to the contrary in this chapter.
- F. Government Employees: It shall be lawful for a city, county, state, federal or other government employee to perform routine maintenance work, not involving excavations, without first having obtained a permit therefor.
- G. Hand Digging Excavations: A permit is not required from the city engineer for hand digging excavations for installation or repair of sprinkler systems and landscaping within the nonpaved areas of the public way. However, conformance to all city specifications is required.

*Adopted by Ord. 98-2 on 2/11/1998
Amended by Ord. 2001 Code on 1/1/2001*

7-3-5: FEES FOR PERMIT

- A. Authorized: The city shall charge and the permittee shall pay upon issuance of the permit, fees for costs associated with the work performed under the permit as outlined in the consolidated fee schedule. Such costs could include costs for reviewing the project and issuing the permit, inspections of the project, deterioration of the public way or diminution of the useful life of the public way, and other costs to the city associated with the work to be done under the permit. All costs shall be assessed in a nondiscriminatory manner.
- B. Waiver; Determination: The city engineer may waive permit fees or penalties, or portion thereof, provided for in this chapter, when he/she determines that such permit fee or penalty:
 1. Low Income Housing: Pertains to construction or rehabilitation of housing for persons whose income is below the median income level for the city; or
 2. Encroachment Involving Beautification Project: Pertains to an encroachment on the public way involving a beautification project which furthers specific goals and objectives set forth in the city's strategic plan, master plans or other official documents, including decorative street lighting, building facade lighting, flower and planter boxes and landscaping.
- C. Required Reviews And Inspections: Additional charges to cover the reasonable cost and expenses of any required engineering review, inspection and work site restoration associated with each undertaking may be charged by the city to each permittee, in addition to the permit fee.

Adopted by Ord. 98-2 on 2/11/1998

7-3-6: INSURANCE REQUIREMENTS

- A. Evidence Provided; Limits, Provisions: Before a permit is issued, the applicant shall furnish to the city evidence that such applicant has a comprehensive general liability and property damage policy that includes contractual liability coverage endorsed with the following limits and provisions, or with such alternative limits and provisions as may be approved by the city:
 1. A minimum of one million dollars (\$1,000,000.00) combined single limit per occurrence for bodily injury, personal injury and property damage and not less than one million dollars (\$1,000,000.00) in the aggregate. The general aggregate limit shall apply separately to the permit, or the general aggregate limit shall be two (2) times the required occurrence limit. The coverage shall be in the nature of broad form commercial general liability coverage. The city attorney may increase or decrease minimum insurance limits, depending on the potential liability of any project.
 2. All policies shall include the city, its employees, officers, officials, agents, volunteers and assigns as insured. Any reference to the "city" shall include the city, its employees, officers, officials, agents, volunteers and assigns.
 3. The coverage shall be primary insurance as respects the city, its employees, officers, officials, agents, volunteers, and assigns. Any insurance or self-insurance maintained by the city, its employees, officers, officials, agents, volunteers and assigns shall be in excess of the permittee's insurance and shall not contribute to or with it.
 4. Any failure to comply with reporting provisions of the policy shall not effect coverage provided to the city, its employees, officers, officials, agents, volunteers and assigns.
 5. Coverage shall state that the permittee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 6. Underwriters shall have no right of recovery or subrogation against the city, it being the intent of the parties that the insurance policy so affected shall protect both parties and be primary coverage for any and all losses covered by the described insurance.
 7. The insurance companies issuing the policy shall have no recourse against the city for payment of any premiums due or for any assessments under any form of any policy.
 8. Each insurance policy shall be endorsed to state that the coverage shall not be suspended, voided, canceled or reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, sent to the city.
 9. Each policy shall be endorsed to indemnify, save harmless and defend the city and its officers and employees against any claim or loss, damage or expense sustained on account of damages to persons or property occurring by reason of permit work done by the permittee, his/her subcontractor or agent, whether or not the work has been completed and whether or not the right of way has been opened to public travel.
 10. Each policy shall be endorsed to indemnify, hold harmless and defend the city and its officers and employees against any claim or loss, damage or expense sustained by any person occurring by reason of doing any work pursuant to the permit, including, but not limited to, falling objects or failure to maintain proper barricades and/or lights as required from the time work begins until the work is completed and right of way is opened for public use.
- B. Rating Of Insurer: Insurance is to be placed with insurers with an AM Best rating of no less than an "A" carrier, with a rating of "7" or higher.
- C. Certificates, Endorsements: The permittee shall furnish the city with certificates of insurance and original endorsements affecting coverage required by the permit. The certificates and endorsements of each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The city expressly reserves the right to require complete, certified copies of all required insurance policies at any time.

Consequently, the permittee shall be prepared to provide such copies prior to the issuance of the permit.

- D. **Unsatisfactory Policy:** If any of the required policies are, or at any time become, unsatisfactory to the city as to form or substance, or if a company issuing any such policy is, or at any time becomes, unsatisfactory to the city, the permittee shall promptly obtain a new policy, submit the same to the city for approval and thereafter submit verification of coverage as required by the city. Upon failure to furnish, deliver and maintain such insurance as provided herein, the city may declare the permit to be in default and pursue any and all remedies the city may have at law or in equity, including those actions outlined in this chapter.
- E. **Subcontractors:** The permittee shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.
- F. **Deductibles, Self-Insured Retentions:** Any deductibles or self-insured retentions shall be declared to and approved by the city. At the option of the city, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the city, its employees, officers, officials, agents, volunteers or assigns, or the permittee shall procure a bond, in a form acceptable to the city, guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- G. **Property Owner Performing Work:** A property owner performing work adjacent to his/her residence may submit proof of a homeowner's insurance policy in lieu of the insurance requirements of this section.
- H. **Relief Of Obligation; Circumstances:** A provider may be relieved of the obligation of submitting certificates of insurance under the following circumstances:
 - 1. If such company shall submit satisfactory evidence in advance that:
 - a. It is insured in the amounts set forth in this chapter or has complied with state requirements to become self-insured. Public utilities may submit annually evidence of insurance coverage in lieu of individual submissions for each permit; and
 - b. Said coverage provides to the city the same scope of coverage that would otherwise be provided by a separate policy as required by this chapter; or
 - 2. The work to be performed under the permit issued to the applicant is to be performed by the city, in which case insurance or other risk transfer issues shall be negotiated between the city and the applicant by separate agreement.

Adopted by Ord. 98-2 on 2/11/1998

7-3-7: BOND REQUIRED

- A. **Acceptable Security:** Except as noted in this chapter, each applicant, before being issued a permit, shall provide the city with an acceptable security (this may include a corporate surety bond, cash bond or letter of credit, as determined by the city) in an amount to be determined by the city council to guarantee faithful performance of the work authorized by a permit granted pursuant to this chapter. The amount of the security required may be increased or decreased at the discretion of the city engineer whenever it appears that the amount and cost of the work to be performed, and not satisfactorily completed, may vary from the amount of security otherwise required under this chapter. The form of the security and the entity issuing the security shall be subject to the approval of the city attorney.
- B. **Public Utilities Franchised By City:** Public utilities franchised by the city shall not be required to file any security if such requirement is expressly waived in the franchise documents.
- C. **Conditions Of Security:** The security required by this section shall be conditioned as follows:
 - 1. **Compliance With Specifications And Regulations:** The permittee shall fully comply with the requirements of the city ordinances and regulations, specifications and standards promulgated by the city relative to work in the public way, and respond to the city in damages for failure to conform therewith;
 - 2. **Diligent Completion:** After work is commenced, the permittee shall proceed with diligence and expedition and shall promptly complete such work and restore the public way to construction specifications so as not to obstruct the public place or travel thereon more than is reasonably necessary;
 - 3. **Guarantee Of Materials, Workmanship:** The permittee shall guarantee the materials and workmanship for a period of two (2) years from completion of such work, with reasonable wear and tear excepted; and
 - 4. **Street Facilities:** Unless authorized by the city engineer on the permit, all paving, resurfacing or replacement of street facilities on major or collector streets shall be done in conformance with the regulations contained herein within three (3) calendar days, and within seven (7) calendar days from the time the excavation commences on all other streets, except as provided for during excavation in winter or during weather conditions which do not allow paving according to engineering regulations. In winter, a temporary patch must be provided. In all excavations, restoration of pavement surfaces shall be made immediately after backfilling is completed or concrete is cured. If work is expected to exceed the above duration, the permittee shall submit a detailed construction schedule for approval. The schedule will address means and methods to minimize traffic disruption and complete the construction as soon as reasonably possible.

*Adopted by Ord. 98-2 on 2/11/1998
Amended by Ord. 2001 Code on 1/1/2001*

7-3-8: DURATION OF PERMIT; EXTENSIONS

- A. **Completion Date; Determination:** Each permit application shall state the starting date and estimated completion date. Work shall be completed within five (5) days from the starting date or as determined by the city engineer. Such determination shall be based upon factors reasonably related to the work to be performed under the permit. Such factors may include, in addition to other factors related to the work to be performed, the following:
 - 1. The scope of work to be performed under the permit;
 - 2. Maintaining the safe and effective flow of pedestrian and vehicular traffic on the public way affected by the work;
 - 3. Protecting the existing improvements to the public way impacted by the work;
 - 4. The season of the year during which the work is to be performed, as well as the current weather and its impact on public safety and the use of the public way by the public;
 - 5. Use of the public way for extraordinary events anticipated by the city.
- B. **Notification To City Upon Commencement:** The city engineer shall be notified by the permittee of commencement of the work within twenty four (24) hours prior to commencing work. The permit shall be valid for the time period specified in the permit.
- C. **Application For Extension:** If the work is not completed during such period, prior to the expiration of the permit, the permittee may apply to the city engineer for an additional permit or an extension, which may be granted by the city engineer for good cause shown.
- D. **Length Of Extension:** The length of the extension requested by the permittee shall be subject to the approval of the city engineer. No extension shall be made that allows work to be completed in the winter period without payment of winter fees.

Adopted by Ord. 98-2 on 2/11/1998

7-3-9: COMPLIANCE REQUIRED

- A. Regulations, Specifications: The work performed in the public way shall conform to the requirements of the engineering regulations, design standards, construction specifications and traffic-control regulations of the city, copies of which shall be available from the city engineer, kept on file in the office of the city recorder and be open to public inspection during office hours.
- B. Unattended Site; Permittee Identification: Where a job site is left unattended before completion of the work, signage with minimum two inch (2") high letters shall be attached to a barricade or otherwise posted at the site, indicating the permittee's name or company name, telephone number and after hours telephone number.
- C. Traffic Control; Barricades: All excavations shall be conducted in a manner resulting in a minimum amount of interference or interruption of street or pedestrian traffic. Inconvenience to residents and businesses fronting on the public way shall be minimized. Suitable, adequate and sufficient barricades and/or other structures will be available and used where necessary to prevent accidents involving property or persons. Barricades must be in place until all of the permittee's equipment is removed from the site and the excavation has been backfilled and proper temporary gravel surface is in place, except where backfilling and resurfacing is to be done by the city; in which case the barricades, together with any necessary lights, flares or torches, must remain in place until the backfill work is actually commenced by the city. From sunset to sunrise, all barricades and excavations must be clearly outlined by adequate signal lights, torches, etc. The city's law enforcement agency and fire department shall be notified at least twenty four (24) hours in advance of any planned excavation requiring street closure or traffic detour.

Adopted by Ord. 98-2 on 2/11/1998
Amended by Ord. 2001 Code on 1/1/2001

7-3-10: RELOCATION OF STRUCTURES IN PUBLIC WAYS

- A. Authority; Costs: The city engineer may direct any person owning or maintaining facilities or structures in the public way to alter, modify or relocate such facilities or structures as the city engineer may require as set forth herein. Sewers, pipes, drains, tunnels, conduits, pipe driveways, vaults, trash receptacles and overhead and underground gas, electric, telephone, telecommunication and communication facilities shall specifically be subject to such directives. The person owning or maintaining the facilities or structures shall, at their own cost and expense and upon reasonable written notice by the city, promptly protect or promptly alter or relocate such facilities or structures, or part thereof, as directed by the city. In the event that such person refuses or neglects to conform to the directive of the city, the city shall have the right to break through, remove, alter or relocate such part of the facilities or structures without liability to such person. Such person shall pay to the city all costs incurred by the city in connection with such work performed by the city, including also design, engineering, construction, materials, insurance, court costs and attorney fees.
- B. Considerations For Issuing Directive: Any directive by the city engineer shall be based upon the following:
 - 1. The facility or structure was installed, erected or is being maintained contrary to law, or determined by the city engineer to be structurally unsound or defective;
 - 2. The facility or structure constitutes a "nuisance", as defined under state statute;
 - 3. The permit under which the facility or structure was installed has expired or has been revoked;
 - 4. The public way is about to be repaired or improved and such facilities or structures may pose a hindrance to construction; or
 - 5. The grades or lines of the public way are to be altered or changed.
- C. Police Power: Any directive of the city engineer under this section shall be under and consistent with the city's police power. Unless an emergency condition exists, the city engineer shall make a good faith effort to consult with the person regarding any condition that may result in a removal or relocation of facilities in the public way to consider possible avoidance or minimization of removal or relocation requirements and provide the directive as far enough in advance of the required removal or relocation to allow the person a reasonable opportunity to plan and minimize cost associated with the required removal or relocation.
- D. Private Easements; Exception: This obligation does not apply to facilities or structures originally located on private property pursuant to a private easement, which property was later incorporated into the public way, if that prior private easement grants a superior vested right.
- E. Failure To Comply: Any person owning or maintaining facilities or structures in the public way who fails to alter, modify or relocate such facilities or structures upon notice to do so by the city engineer shall be guilty of a Class B misdemeanor and subject to penalty as provided in section [1-4-1](#) of this code. All costs of alteration, modification or relocation shall be borne by the person owning or maintaining the facilities or structures involved.
- F. Emergency; Authority Of City: The city may, at any time, in case of fire, disaster or other emergency, as determined by the city in its reasonable discretion, cut or move any parts of the system and appurtenances on, over or under the public way, in which event the city shall not be liable therefor to a person. The city shall notify a person in writing prior to, if practicable, but in any event as soon as possible and in no case later than the next business day following any action taken under this subsection.

Adopted by Ord. 98-2 on 2/11/1998
Amended by Ord. 2001 Code on 1/1/2001

7-3-11: IMPACT ON EXISTING IMPROVEMENTS

- A. Sidewalk Or Curb Ramp Blocked; Temporary Improvement: If any sidewalk or curb ramp is blocked by excavation work, a temporary sidewalk or curb ramp shall be constructed or provided. Said temporary improvement shall be safe for travel and convenient for users, and consistent with city standards for such.
- B. Paved Areas; Temporary Surface: Where excavations are made in paved areas, the surface shall be replaced with a temporary gravel surface until such time as the permanent repairs are completed.
- C. Disturbance Of Property:
 - 1. At any time a permittee disturbs the yard, residence or the real or personal property of a private property owner or the city, such permittee shall ensure that such property is returned, replaced and/or restored to a condition that is comparable to the condition that existed prior to the commencement of the work.
 - 2. The costs associated with the disturbance and the return, replacement and/or restoration shall be done by the permittee. Further, a permittee shall reimburse a property owner or the city for any actual damage caused by the permittee, its subcontractor or its independent contractor, in connection with the disturbance of such property. However, nothing in this subsection shall require the permittee to pay a subscriber or private property owner when that subscriber or private property owner requests that the permittee remove, replace or relocate improvements associated with the service provided by the permittee to the property owner and when the permittee exercises due care in the performance of that service, or when the subscriber or private property owner provided false information to the permittee on which the permittee relied to its detriment.
- D. Acts Specifically Included: Examples of types of acts specifically included in this section are the following:
 - 1. Removal of sod, lawn, shrubbery, flowers, trees, driveways or fence to install, trench, repair, replace, remove or locate, equipment, cable or other appurtenances of the permittee;
 - 2. Installation or removal of equipment or other appurtenances of the permittee's system within a private property owner's property or residence which requires drilling, excavating, plastering or the like on the part of the permittee;

3. Temporarily relocating or moving a piece of personal property or a fixture of a private property owner, such as a motor vehicle, fence, air conditioning, heating unit or the like, in order to perform some sort of construction, maintenance or repair by the permittee; or
 4. Permanently removing a permittee's equipment or other appurtenances due to the revocation, termination or nonrenewal of the franchise (if applicable).
- E. Drainage Channels Free From Debris: Existing drainage channels, such as gutters or ditches, shall be kept free of dirt or other debris so that natural flow will not be interrupted. When it is necessary to block or otherwise interrupt flow of the drainage channel, a method of rerouting the flow must be submitted for approval by the city engineer prior to the blockage of the channel.
- F. Subcontractor, Independent Contractor: The requirements imposed upon the permittee extend to any subcontractor or independent contractor that the permittee might employ to perform the tasks pursuant to the permit.
- G. Exception: The requirements of this section shall not apply to the removal by a permittee of a permanent structure placed by a property owner in a public way, unless such property owner has received prior written permission from the city granting the property owner the right to install a permanent structure on a public way, and such written permission has been recorded in the office of the County Recorder.

Adopted by Ord. 98-2 on 2/11/1998

7-3-12: RESTORATION OF PUBLIC PROPERTY

- A. Required: The permittee shall, at its own expense, restore the surface of any public way to its original condition and replace any removed or damaged pavement with the same type and depth of pavement as that which is adjoining, including the gravel base material. All restoration shall conform to the engineering regulations, design standards and specifications promulgated by the city and shall be accomplished within the time limits set forth in the permit, unless additional time is granted in writing by the department.
- B. Work Done By City; Fee Charged To Permittee: At its option, the permittee doing the actual excavation work may request that the city restore the surface to its original condition. The fee for such resurfacing shall be determined by the city engineer in accordance with its reasonable costs for such work and shall be charged to the person making the excavation. Payment for said work shall be received by the city prior to the release of the bond.

Adopted by Ord. 98-2 on 2/11/1998

7-3-13: TRANSFERABILITY; ASSIGNABILITY

Permits shall not be transferable or assignable, and work shall not be performed under a permit in any place other than that specified in the permit. Nothing herein contained shall prevent a permittee from subcontracting the work to be performed under a permit; provided, however, that the holder of the permit shall be and remain responsible for the performance of the work under the permit, and for all bonding, insurance and other requirements of this chapter and under said permit.

Adopted by Ord. 98-2 on 2/11/1998

7-3-14: OTHER HIGHWAY PERMITS

- A. City Permit Not Required: Holders of permits for work on highways owned or under the jurisdiction of other government entities, but located within the city limits, shall not be required to obtain permits from the city under the provisions of this chapter, unless the work extends beyond the back side of the curb, or beyond any other designated jurisdictional boundary. Any city permit shall not be construed to permit or allow work on a county road or a state highway within the city without an applicable county or state permit.
- B. Regulation Of Work By City; Authority: The city engineer, in his or her discretion, shall have the right and authority to regulate work under permits issued by other governmental entities with respect to hours and days of work, and measures required to be taken by the permittee of said governmental entity for the protection of traffic and safety of persons and property.
- C. Liability: Notwithstanding the foregoing, nothing in this chapter shall be construed to impose any duty, implied or expressed, on the city or its employees, officers, agents or assigns, relative to the protection of traffic and safety of persons or property arising out of the issuance of any permit issued by government entities other than the city, or arising out of any work performed on any public way owned or within the jurisdiction of the city.

Adopted by Ord. 98-2 on 2/11/1998

7-3-15: WORK WITHOUT PERMIT

- A. Stop Order: A stop order may be issued by the city engineer directed to any person doing or causing any work to be done in the public way without a permit. The abutting property owner shall be responsible for causing work to be done.
- B. Fee: Any person found to be doing work in the public way without having obtained a permit, as provided in this chapter, shall be required to pay a permit fee equal to two (2) times the normal permit fee. For replacement work, where a fee is not normally charged, the normal permit fee for new construction shall apply.

Adopted by Ord. 98-2 on 2/11/1998

7-3-16: REVOCATION OR SUSPENSION; STOP ORDER; DEFAULT

- A. Authority; Notice: Any permit may be revoked or suspended and a stop order issued by the city engineer, after notice to the permittee for:
1. Violation of any condition of the permit, the security or of any provision of this chapter;
 2. Violation of any provision of any other ordinance of the city or law relating to the work; or
 3. Existence of any condition or the doing of any act which does constitute, may constitute or cause a condition endangering life or property.
- B. Immediate Effect: A suspension or revocation by the city engineer and a stop order, shall take effect immediately upon entry thereof by the city engineer and notice to the person performing the work in the public way. Notice to the person performing the work shall be accomplished when the city engineer has posted a stop work order at the location of the work and written notice has been mailed, return receipt requested, to the address indicated by the permittee on the permit.
- C. Default: Whenever the city engineer finds that a default has occurred in the performance of any term or condition of the permit, written notice thereof may be given to the principal and to the surety on the bond, if there is a surety bond. Such notice shall state the work to be done, the estimated cost thereof and the period of time deemed by the city engineer to be reasonably necessary for the completion of the work.
- D. Failure To Commence Work: In the event that the surety (or principal), within a reasonable time following the giving of such notice (taking into consideration the exigencies of the situation, the nature of the work, the requirements of public safety and for the protection of persons and property), fails either to commence and cause the required work to be performed with due diligence, or to indemnify the city for the cost of doing the work, as set forth in the notice, the city may perform the work, at the discretion of the city engineer, with city forces or contract forces, or both,

and suit may be commenced by the city attorney against the contractor and bonding company and such other persons as may be liable, to recover the entire amount due to the city, including attorney fees, on account thereof. In the event that cash has been deposited, the cost of performing the work may be charged against the amount deposited, and suit brought for the balance due, if any.

Adopted by Ord. 98-2 on 2/11/1998

7-3-17: FAILURE TO CONFORM TO DESIGN STANDARDS

For failure to conform to the design standards and regulations, the city engineer may:

- A. Suspend or revoke the permit;
- B. Issue a stop order;
- C. Order removal and replacement of faulty work;
- D. Require an extended warranty period; and/or
- E. Negotiate a cash settlement to be applied toward future maintenance costs.

Adopted by Ord. 98-2 on 2/11/1998

7-3-18: EMERGENCY WORK

- A. Authorized Without Permit: Any person maintaining pipes, lines or facilities in the public way may proceed with work upon existing facilities without a permit when emergency circumstances demand the work to be done immediately; provided a permit could not reasonably and practicably have been obtained beforehand.
- B. Notification To City; Protection Of Public: In the event that emergency work is commenced on or within any public way of the city during regular business hours, the city engineer shall be notified within one-half ($\frac{1}{2}$) hour from the time the work is commenced. The person commencing and conducting such work shall take all necessary safety precautions for the protection of the public and the direction and control of traffic, and shall ensure that work is accomplished according to city engineering regulations, the manual on uniform traffic control devices and other applicable laws, regulations or generally recognized practices in the industry.
- C. Application For Permit; Time Limit: Any person commencing emergency work in the public way during other than business hours without a permit shall immediately thereafter apply for a permit or give notice during the first hour of the first regular business day on which city offices are open for business after such work is commenced. A permit for such emergency work may be issued which shall be retroactive to the date when the work was begun, at the discretion of the city engineer.

Adopted by Ord. 98-2 on 2/11/1998

7-3-19: NONLIABILITY OF CITY

- A. Agreement To Hold City Harmless: The permittee agrees to save the city, its officers, employees and agents harmless from any and all costs, damages and liabilities which may accrue or be claimed to accrue by reason of any work performed under the permit. The issuance and acceptance of any permit under this chapter shall constitute such an agreement by the permittee to this section.
- B. Liability: This chapter shall neither be construed as imposing upon the city, its officers, employees and agents, any liability or responsibility for damages to any person injured by or by reason of the performance of any work within the public way, or under a permit issued pursuant to this chapter; nor shall the city, its officers, officials, employees, agents, volunteers or assigns thereof be deemed to have assumed any such liability or responsibility by reason of inspection authorized hereunder, the issuance of any permit or the approval of any work.

Adopted by Ord. 98-2 on 2/11/1998

7-3-20: APPEALS

- A. Application Disapproval Or Denial: The disapproval or denial of an application by the city engineer may be appealed by the applicant to the city council by the filing of a written notice of appeal within ten (10) days of the action of the city engineer. The city council shall hear such appeal, if written request therefor be timely filed as soon as practicable, and render their decision within two (2) weeks following notice of such appeal.
- B. Suspension, Revocation Or Stop Order: Any suspension, revocation or stop order by the city engineer may be appealed by the permittee to the city council by filing a written notice of appeal within ten (10) days of the action of the city engineer. The city council shall hear such appeal, if written request therefor be timely filed, as soon as practicable, and render their decision within a reasonable time following filing of notice of appeal.

Adopted by Ord. 98-2 on 2/11/1998

7-3-21: TAMPERING WITH TRAFFIC BARRICADES

It shall be unlawful for any person to maliciously or wantonly or without authorization and legal cause, extinguish, remove or diminish any light illuminating any barricade or excavation, or to tear down, remove or in any manner alter any rail, fence or barricade protecting any excavation or other construction site.

Adopted by Ord. 98-2 on 2/11/1998

7-3-22: CONFLICTING PROVISIONS

Should there be a conflict between the provisions of this chapter and the provisions of any other ordinance, agreement, franchise or other document governing the excavation of a public way, the more restrictive provisions of the aforesaid documents shall apply.

Adopted by Ord. 98-2 on 2/11/1998

7-3-23: PENALTY

Unless otherwise specified in this chapter, a violation of any provision of this chapter, or failure to comply with an order of suspension, revocation or stop work, shall be a Class B misdemeanor, subject to penalty as provided in section [1-4-1](#) of this code. Each day the violation exists shall be a separate offense. No criminal conviction shall excuse the person from otherwise complying with the provisions of this chapter.

Adopted by Ord. 98-2 on 2/11/1998

Chapter 4: MUNICIPAL PROPERTIES; PROTECTION, USE AND CONTROL

7-4-1: UNLAWFUL USE
7-4-2: REPAIR AFTER UNLAWFUL USE
7-4-3: FRANCHISE; EASEMENT
7-4-4: ACTS EXEMPTED
7-4-5: UNLAWFUL ACTS

7-4-1: 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 section 1-4-1 of this code 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 use or perform acts upon property of the city which materially impairs, alters or damages the property.

*Adopted by Ord. 1976 Code § 8-111 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

7-4-2: 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.

Adopted by Ord. 1976 Code § 8-112 on 1/1/1976

7-4-3: 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 sections 7-4-1 and 7-4-2 of this chapter 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.

Adopted by Ord. 1976 Code § 8-113 on 1/1/1976

7-4-4: 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.

Adopted by Ord. 1976 Code § 8-114 on 1/1/1976

7-4-5: UNLAWFUL ACTS

- A. Public Property Defined: For the purpose of this section, "public property" means any publicly-owned property, except the traveled portion of public streets and includes any park, sidewalk, curb or any part of any public right of way devoted to any planting or park-like use.
- B. Unlawful Acts Specified: On any public property, it is unlawful for any person to:
 - 1. Wilfully mark, deface, disfigure, injure, tamper with, displace or remove any building, railing, bench, paving, paving material, water line or any facilities or property and equipment of any public utilities or parts or appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts or other boundary markers, wall or rock border, or other structures or equipment, facilities or public property or appurtenances whatever, either real or personal.
 - 2. Soil or litter public restrooms and washrooms.
 - 3. Dig and remove any sand, soil, rock, stones, trees, shrubs or plants, down timber or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency, unless permission is obtained.
 - 4. Construct or erect any building or structure of whatever kind, whether permanent or temporary in character, any tent, fly or windbreak, or run or string any rope, cord or wire into, upon or across any public property, except with special permit.
 - 5. Urinate or defecate, except in a public restroom in receptacles placed there for such purpose.
 - 6. Damage, cut, carve, burn, transplant or remove any tree or plant or injure the bark or pick the flowers or seeds of any tree or plant. No person shall attach any rope, wire or other contrivance to any tree or plant. No person shall dig in or otherwise disturb, or in any other way injure or impair the natural beauty or usefulness of any park area. This subsection shall not apply to any person authorized to perform the act prescribed.
 - 7. Climb any tree or walk, stand or sit on monuments, fountains, railings, fences, planted areas or upon any other property not designed or customarily used for such purposes or to intentionally stand, sit or lie in or upon any street, sidewalk, stairway or crosswalk so as to prevent free passage of persons or vehicles passing over, along or across any street, sidewalk, stairway or crosswalk.
 - 8. Drop, throw, place, discard, dump, leave or otherwise deposit any bottles, broken glass, garbage, ashes, paper, boxes, cans, dirt, rubbish, waste, refuse or other trash on any public property except in waste containers provided therefor. No such refuse or trash shall be placed in any waters contiguous to any park or planted area or left anywhere on the grounds thereof.
 - 9. Sleep on seats, benches, sidewalks, curbs, planters, walls or other areas.
 - 10. Expose or offer for sale any article or thing, or station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing, without first obtaining a license, except that the city council may exempt designated areas from this subsection by resolution on such terms and conditions as it may prescribe.
 - 11. To beg or to go from door to door of private homes or commercial and business establishments or place himself in or upon any public way or public place to beg or to receive money or other things of value.

Adopted by Ord. 1976 Code §§ 13-351, 13-352 on 1/1/1976

Chapter 5: CEMETERIES

7-5-1: CITY CEMETERY
7-5-2: DEFINITIONS
7-5-3: APPLICABILITY

7-5-4: CEMETERY SUPERINTENDENT
7-5-5: BURIALS
7-5-6: FEES AND CHARGES
7-5-7: LOT SALES
7-5-8: PERPETUAL CARE LOTS
7-5-9: NONPERPETUAL CARE LOTS
7-5-10: INDIGENTS
7-5-11: RULES AND REGULATIONS
7-5-12: CARE AND MAINTENANCE; RIGHT TO ENTER
7-5-13: UNLAWFUL ACTS

7-5-1: CITY CEMETERY

The burial grounds of the city shall be known and designated by the names of the Honeyville cemetery and the Call's Fort cemetery.

Adopted by Ord. 1976 Code § 8-202 on 1/1/1976

7-5-2: DEFINITIONS

The following words or phrases shall have the following meanings, unless the context otherwise clearly requires:

LOT: The partial lots or single graves in the city cemetery.

LOT OWNER OR PURCHASER AND GRAVE OWNER OR PURCHASER: The owner or purchaser of burial privileges or the collateral right of use of any burial lot evidenced by a deed or burial right for a described lot or by proved and recognized descent or devise from the original owner.

Adopted by Ord. 1976 Code § 8-201 on 1/1/1976

7-5-3: 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.

Adopted by Ord. 1976 Code § 8-203 on 1/1/1976

7-5-4: CEMETERY SUPERINTENDENT

- A. Created: There is hereby created the position of cemetery superintendent. (1976 Code § 8-211)
- B. Duties: The cemetery superintendent shall have the general supervision and administration of the city cemetery, including, but not limited to:
 - 1. Recommending to the city council such additional rules and regulations as may be necessary for the operation, maintenance, use and protection of the cemetery.
 - 2. Subdividing the cemetery into lots and grave sites.
 - 3. Maintaining a record of the location of the graves and preventing any lot from being used beyond its capacity.
 - 4. 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.
 - 5. Keeping a duplicate plat of the cemetery and, at the request of any person wishing to purchase any of the lots or parts of lots, pointing out any of the lots or parts of lots for sale; and upon disposal of any lots or part thereof, notifying the city recorder of such fact. The city recorder shall, after payment of the lot price has been received in the treasury, issue a certificate of burial rights which shall describe the lot or grave to which the right to burial is granted. The certificate shall be signed by the mayor and the city recorder.
 - 6. Opening any graves in the cemetery upon application to him being made by the city recorder or by any person having the right to make such application and being responsible for closing all graves.
 - 7. Removing floral pieces or displays left on any grave as deemed necessary to the appearance of the cemetery, but such floral pieces or displays shall not be removed sooner than five (5) days after original placement, except in emergency.
 - 8. Keeping the streets, alleys, walks and avenues in the cemetery in good order and unobstructed.
 - 9. Erecting a suitable marker firmly set upon the northwest corner of each lot with the number of the lot inscribed thereon and which location shall be shown on the cemetery records.

Adopted by Ord. 1976 Code § 8-211, 8-212 on 1/1/1976

7-5-5: BURIALS

- A. Permits Required:
 - 1. Before any deceased person is buried in the city cemetery, a permit properly issued by the registrar of the registration district in which the death occurred or, in the absence of such registrar, a permit duly issued by the State Division of Health or other authorized person shall be required by the cemetery superintendent. After burial, the cemetery superintendent shall endorse upon the permit a description of the location where the deceased is buried and shall enter all of the information contained in the permit in the cemetery records.
 - 2. 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 lot used or producing satisfactory evidence of a right to burial based on a properly acquired certificate of burial right.
- 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 recorder with a written statement which shall be filed by the city recorder, which statement shall contain, if known, information about the deceased regarding his or her name, when and where born, the date and cause of death, the name of the attending physician, date of burial, name of cemetery and the description of the location of the grave.
- C. Unlawful Acts:
 - 1. It is an infraction, subject to penalty as provided in section 1-4-1 of this code, for any person to:
 - a. Disinter any body buried in any cemetery, except under the direction of the cemetery superintendent who shall, before disinterment, require written permission from both the health officer and the owner of the lot or his or her 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 (2) 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 section [1-4-1](#) of this code, to inter anything other than the remains of human bodies in cemeteries.
3. It is an infraction, subject to penalty as provided in section [1-4-1](#) of this code, 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.

D. Vaults Required:

1. Unless in writing waived by the cemetery superintendent, it shall be unlawful for any person to be buried in the cemetery unless the casket shall be placed in a vault made of concrete, fiberglass, steel or brick-lined or of such other material approved by the city council, substantially constructed and covered with a similar durable material.
2. No wood shall be used as a permanent part of the construction of any part of the vault.

*Adopted by Ord. 1976 Code §§ 8-221, 8-222, 8-223, 8-224, 8-225 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

7-5-6: 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; and all burial fees and sale of burial plots for residents and nonresidents, will be as set by resolution.
- B. Collection: The city recorder, 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 recorder or person designated by the city council when presented to the cemetery superintendent, 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 fees for the opening of a grave, and wherein that mortician will be personally liable for such fees and for perpetual care payments, the city recorder or authorized person may give the cemetery superintendent authority to open graves without the presentation of a receipt from the city recorder or authorized person.

*Adopted by Ord. 1976 Code §§ 8-241, 8-242, 8-243 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

7-5-7: LOT SALES

- A. Authority; Records: The city recorder, and such other person as the city council may designate, are hereby authorized to sell the use of lots in the city cemetery for burial purposes only and to collect all sums arising from the sale. The city recorder shall keep a complete record of all sales, which record shall describe the location of the lot purchased and the price paid therefor. The city recorder or designated person shall deliver to each purchaser a certificate of burial rights for each lot purchased, which certificate shall, among other things, describe the location of the lot, the purchase price and the type of maintenance services which are to be provided, e.g., perpetual care.
- B. Purchase Price, Scope Of: A certificate and right 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 to this section shall not be construed to be in payment for cemetery services other than perpetual care.
- C. Perpetual Care Included: Perpetual care 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. Additional Improvements, Changes And Services: No other improvements, changes or services, except perpetual care, shall be made on any lot without the certificate holder or his heirs first submitting to and receiving from the cemetery superintendent written approval for such improvements, changes or services, which improvements, changes or services shall be subject to the rules and regulations promulgated by the city council.
- E. Resale Restrictions:
 1. From and after July 24, 1976, the lots sold by the city shall not be further sold, transferred, conveyed or assigned to any person except the city. The city hereby agrees to buy back any city cemetery grave lot which it may hereafter sell. The repurchase of such lots shall be for the original price paid by the purchaser or the current selling price of the lot, whichever is less.
 2. Whenever a certificate to burial rights or lots 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 lots or parts of lots, 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.

Adopted by Ord. 1976 Code §§ 8-251, 8-252 on 1/1/1976

7-5-8: PERPETUAL CARE LOTS

- 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 lots and 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 lots 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. Contracting For Care:
 1. No grave shall be hereafter opened in the cemetery of this city until perpetual care upon the lot where the grave is to be opened shall have been contracted for with the city, or perpetual care thereon paid. Should it be the desire of any person to have a grave opened and the body interred therein and perpetual care shall not have been previously contracted for or paid in full for the lot therein, the person may either pay the full purchase price for perpetual care or enter into a contract wherein payment shall be agreed.
 2. The agreement shall provide for a down payment in the amount of twenty percent (20%) of the total purchase price of the cost of the lot, and shall further provide for the payment of monthly installments over a period not to exceed twenty (20) months. The monthly installments shall be in the amounts equal to the balance of the contract divided by the number of months which the contract is to run, plus two (2) months extra payment to pay for the privilege of making the payments in installments or six percent (6%) of the balance, whichever is less.

3. The installment contract for perpetual care of, or purchase of a lot with perpetual care, shall provide for collection by the city in event of a default and such collection shall be by civil action, and the defendant therein shall pay cost of collection, together with reasonable attorney fees to the city, and shall also pay interest at the rate of eight percent (8%) per annum upon the past due installments. All installments shall immediately become due upon the default of any of the installments; provided, however, that when perpetual care for any lot in the city cemetery or portion thereof, has not been paid for a period of ten (10) years, then, and in such an event, the unused portion of the lot shall thereafter escheat to the city, and the title thereof shall revert to the city, which shall thereafter have the right, option and privilege to sell and dispose of unused cemetery property, as is in this chapter provided, upon condition that the city shall thereafter maintain perpetually without cost of fee the portion of the lot occupied by a grave or graves prior to the date when the remaining property escheated to the city.
4. The city shall have the power to fix, by resolution, a fee from any person now owning a cemetery lot or portion thereof for the annual maintenance and care thereof. The fee shall continue to be paid until such time as a further or additional interment shall be made on the lot, at which time the provisions of this subsection relating to perpetual care and maintenance and to payment of fees and costs pertaining thereto shall take effect and apply.

*Adopted by Ord. 1976 Code §§ 8-261, 8-262 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

7-5-9: NONPERPETUAL CARE LOTS

A. Maintenance Charges:

1. Every lot for which perpetual care has not been purchased and with reference to which the owner has established a right to directly provide for maintenance and care, notwithstanding the provisions of section [7-5-12](#) of this chapter, shall be maintained and cared for to the extent and in accordance with the standards established by the city council for care and maintenance of all lots of the cemetery.
2. In the event that the owner fails to provide the requisite care and maintenance for nonperpetual care lots, the cemetery superintendent shall furnish care and maintenance at rates established by the city council.
3. All such charges shall become a personal liability of the owner of the lots and, in addition thereto, shall constitute a lien against the lots upon the basis of which the city council may cause the burial rights therein to be forfeited and said rights to revert to the city.

B. Reversion Of Nonpaying Lots:

1. When any owner of any lot or portion of a lot in the cemetery shall have failed to pay the cost of services rendered by the city or its employees in watering, beautifying, maintaining or caring for any lots or portions thereof in the city cemetery for which perpetual care has not been purchased in accordance with the provisions of this chapter, and such failure to pay has continued for a period of six (6) months, the city may pursue collection of such costs in a court of law. A court action may be pursued for the purpose of seeking judgment against the owner and thereafter attaching any of the assets of the owner, including an attachment of the lots or portions of lots upon which the owner has failed to make payment for maintenance service.
2. As an additional remedy, or in lieu of seeking collection in a court of law, the city may cancel the owner's certificate or deed representing rights to burial on the unoccupied lots or portions of lots and causing ownership of lots or portions thereof to revert back to the city by following the procedure set forth in this section.

C. Procedure For Reversion Back To City:

1. The city may terminate the owner's right to use of unoccupied lot or lots in the city cemetery when there has been a six (6) month failure to pay the costs of maintenance provided by the city in the following manner:
 - a. The city council shall fix a time and place of hearing before the city council at which the owner shall be given the opportunity to present good cause as to why his right to future use of the lot or lots involved shall not be terminated and as to why the ownership of the lot or portions of lot shall not revert back to the city for resale by it.
 - b. A notice of the time, place and purpose of the hearing to forfeit the owner's interest in the lot or parts of the lot shall be given by personal delivery of a written notice of the time, place and purpose of the meeting of the city council or by mailing a copy of the notice to the last known address of the owner or owners.
 - c. In the absence of an ability to make personal delivery of the written notice to the owner or owners, a notice of the hearing to forfeit rights to said lot or portions of lot shall be published at least once in a newspaper having general circulation in the county. The publication shall be made at least three (3) weeks prior to the date of the hearing.
 - d. If the owner is known to be deceased, then mailing of notice or delivery of notice shall be made to the last known addresses of any known heirs.
 - e. Copies of the notice shall also be posted in a conspicuous place in the offices of the city.
 - f. At the time and place set for the hearing before the city council, the city council shall give the owner or owners an opportunity to be heard, a right to present witnesses and to submit evidence showing cause why the lot or portions of the lot shall not be forfeited to the city.
2. After due consideration of all the facts presented at such hearing, the city council may order, if it finds that there has been a failure to make payment of such costs or if no satisfactory arrangement has been preferred for making the immediate payment of such costs, that the lot or portions of lot shall revert to the city for resale and that all of the rights and privileges of the owner in the lot or lots are terminated.
3. Thereafter, the city may make sale of the lots in the same manner as it makes sales of all other lots within the cemetery.

Adopted by Ord. 1976 Code §§ 8-281, 8-282, 8-283 on 1/1/1976

7-5-10: INDIGENTS

- A. The city council may by resolution designate a portion of the city cemetery to the burial of indigents. Whenever it is made to appear to the mayor by proof submitted to him by the city recorder that any person who has died does not have an estate sufficient to pay the purchase price of a lot 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 him by the city recorder.
- B. The mayor shall communicate his decision to both the city recorder and the cemetery superintendent. The mayor shall give report of his decision, whether affirmative or negative, to the city council at its next regular meeting. All strangers without funds or other persons who may die in the city may be granted the privilege granted herein.

Adopted by Ord. 1976 Code § 8-291 on 1/1/1976

7-5-11: 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 lots 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 lot 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 five (5) miles per hour.
- D. Children: Children under the age of sixteen (16) years shall not be allowed in cemeteries unless accompanied by their parents or other adults, except for the purposes of attending authorized funerals or, in the company of adults, placing flowers on the grave of a deceased relative or friend, or performing any other customary evidence of respect in accordance with their religious principles.
- E. Animals: 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.
- F. Decorum: Cemetery grounds are sacredly devoted to the interment and repose of the dead. Strict observance of decorum due such a place shall be required of all persons.
- G. Errors In Opening Graves: Under no circumstances will the city assume responsibilities for errors in opening graves when orders are given by telephone.
- H. 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.

Adopted by Ord. 1976 Code §§ 8-226, 8-227, 8-229, 8-230, 8-231, 8-232, 8-233, 8-237 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001

7-5-12: 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 cemeteries.

Adopted by Ord. 1976 Code § 8-228 on 1/1/1976

7-5-13: UNLAWFUL ACTS

- A. Injury To Property:
1. It is a Class B misdemeanor, subject to penalty as provided in section [1-4-1](#) of this code, for any person to tie or attempt to tie any horse, 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 section [1-4-1](#) of this code, 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 lot or lots, street, alley or walk in the cemetery or to grade the ground or land thereof. The cemetery superintendent shall, whenever required, furnish the true lines of any lots according to official survey, shall prevent and prohibit any markings of 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 lot in the cemetery in violation of the rules and regulations promulgated by the city council regarding the placement, construction and design of all such markers.

Adopted by Ord. 1976 Code §§ 8-234, 8-235, 8-236 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001

Chapter 6: TELECOMMUNICATIONS; USE OF RIGHTS OF WAY

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7-6-1: FINDINGS AND INTENT; AUTHORITY

- A. Rights Of Way: The city finds that the rights of way within the city:
1. Are critical to the travel and transport of persons and property in the business and social life of the city;
 2. Are intended for public uses and must be managed and controlled consistent with that intent;
 3. Can be partially occupied by the facilities of utilities and other public service entities delivering utility and public services rendered for profit, to the enhancement of the health, welfare and general economic well-being of the city and its citizens; and
 4. Are a unique and physically limited resource requiring proper management to maximize the efficiency and to minimize the costs to the taxpayers of the foregoing uses and to minimize the inconvenience to and negative effects upon the public from such facilities' construction, placement, relocation and maintenance in the rights of way.

- B. Compensation: The city finds that the city should receive fair and reasonable compensation for use of the rights of way.
- C. Local Concern: The city finds that while telecommunications systems are in part an extension of interstate commerce, their operations also involve rights of way, municipal franchising and vital business and community service, which are of local concern.
- D. Promotion Of Telecommunications Services: The city finds that it is in the best interests of its taxpayers and citizens to promote the rapid development of telecommunications services, on a nondiscrimination basis, responsive to community and public interest, and to assure availability for city, educational and community services.
- E. Franchise Standards: The city finds that it is in the interests of the public to franchise and to establish standards for franchising providers in a manner that:
 - 1. Fairly and reasonably compensates the city on a competitively neutral and nondiscriminatory basis as provided herein;
 - 2. Encourages competition by establishing terms and conditions under which providers may use the rights of way to serve the public;
 - 3. Fully protects the public interests and the city from any harm that may flow from such commercial use of rights of way;
 - 4. Protects the police powers and rights of way management authority of the city, in a manner consistent with federal and state law;
 - 5. Otherwise protects the public interests in the development and use of the city infrastructure;
 - 6. Protects the public's investment in improvements in the rights of way; and
 - 7. Ensures that no barriers to entry of telecommunications providers are created and that such franchising is accomplished in a manner that does not prohibit or have the effect of prohibiting telecommunication services, within the meaning of the Telecommunications Act of 1996 ("act") (P.L. No. 104-104).
- F. Power To Manage Rights Of Way: The city adopts this telecommunications chapter pursuant to its power to manage the rights of way, pursuant to common law, the Utah Constitution and statutory authority, and receive fair and reasonable compensation for the use of rights of way by providers as expressly set forth by section 253 of the act.

Adopted by Ord. 98-1 on 2/11/1998

7-6-2: DEFINITIONS

For purposes of this chapter, the following terms, phrases, words and their derivatives shall have the meanings set forth in this section, unless the context clearly indicates that another meaning is intended. Words used in the present tense include the future tense, words in the single number include the plural number, words in the plural number include the singular. The words "shall" and "will" are mandatory, and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

APPLICATION: The process by which a provider submits a request and indicates a desire to be granted a franchise to utilize the rights of way of all, or a part, of the city. An application includes all written documentation, verbal statements and representations, in whatever form or forum, made by a provider to the city concerning: the construction of a telecommunications system over, under, on or through the rights of way; the telecommunications services proposed to be provided in the city by a provider; and any other matter pertaining to a proposed system or service.

CITY: City of Honeyville, Utah.

COMPLETION DATE: The date that a provider begins providing services to customers in the city.

CONSTRUCTION COSTS: All costs of constructing a system, including make-ready costs, other than engineering fees, attorney or accountant fees, or other consulting fees.

CONTROL OR CONTROLLING INTEREST: Actual working control in whatever manner exercised, including, without limitation, working control through ownership, management, debt instruments or negative control, as the case may be, of the system or of a provider. A rebuttable presumption of the existence of control or a controlling interest shall arise from the beneficial ownership, directly or indirectly, by any person or group of persons acting in concert, of more than twenty five percent (25%) of any provider (which person or group of persons is hereinafter referred to as "controlling person"). Control or controlling interest, as used herein, may be held simultaneously by more than one person or group of persons.

FCC: The Federal Communications Commission or any successor thereto.

FRANCHISE: The rights and obligations extended by the city to a provider to own, lease, construct, maintain, use or operate a system in the rights of way within the boundaries of the city. Any such authorization, in whatever form granted, shall not mean or include:

- A. Any other permit or authorization required for the privilege of transacting and carrying on a business within the city required by the ordinances and laws of the city;
- B. Any other permit, agreement or authorization required in connection with operations on rights of way or public property, including, without limitation, permits and agreements for placing devices on or in poles, conduits or other structures, whether owned by the city or a private entity, or for excavating or performing other work in or along the rights of way.

FRANCHISE AGREEMENT: A contract entered into in accordance with the provisions of this chapter between the city and a franchisee that sets forth, subject to this chapter, the terms and conditions under which a franchise will be exercised.

GROSS REVENUE: Includes all revenues of a provider that may be included as gross revenue within the meaning of Utah Code Annotated title 11, chapter 26, as amended.

INFRASTRUCTURE PROVIDER: A person providing to another, for the purpose of providing telecommunication services to customers, all or part of the necessary system which uses the rights of way.

OPEN VIDEO SERVICE: Any video programming services provided to any person through the use of rights of way by a provider that is certified by the FCC to operate an open video system pursuant to section 651 et seq., of the Telecommunications Act (to be codified at 47 USC title VI, part V), regardless of the system used.

OPEN VIDEO SYSTEM: The system of cables, wires, lines, towers, wave guides, optic fiber, microwave, laser beams and any associated converters, equipment, or facilities designed and constructed for the purpose of producing, receiving, amplifying or distributing open video services to or from subscribers or locations within the city.

OPERATOR: Any person who provides service over a telecommunications system and directly or through one or more persons owns a controlling interest in such system, or who otherwise controls or is responsible for the operation of such a system.

ORDINANCE OR TELECOMMUNICATIONS ORDINANCE: This telecommunications chapter concerning the granting of franchises in and by the city for the construction, ownership, operation, use or maintenance of a telecommunications system.

PSC: The Public Service Commission or any successor thereto.

PERSON: Includes any individual, corporation, partnership, association, joint stock company, trust or any other legal entity, but not the city.

PERSONAL WIRELESS SERVICES FACILITIES: Has the same meaning as provided in section 704 of the act (47 USC 332(c)(7)(C)), which includes what is commonly known as cellular and PSC services that do not install any system or portion of a system in the rights of way.

PROVIDER: An operator, infrastructure provider, resaler or system lessee.

RESALER: Refers to any person that provides local exchange service over a system for which a separate charge is made, where that person does not own or lease the underlying system used for the transmission.

RIGHTS OF WAY: The surface of and the space above and below any public street, sidewalk, alley or other public way of any type whatsoever, now or hereafter existing as such within the city.

SIGNAL: Any transmission or reception of electronic, electrical, light or laser or radio frequency energy or optical information, in either analog or digital format.

SYSTEM LESSEE: Refers to any person that leases a system or a specific portion of a system to provide services.

TELECOMMUNICATIONS: The transmission, between or among points specified by the user, of information of the user's choosing (e.g., data, video and voice), without change in the form or content of the information sent and received.

TELECOMMUNICATIONS SERVICE OR SERVICES: Any telecommunications services provided by a provider within the city that the provider is authorized to provide under federal, state and local law, and any equipment and/or facilities required for and integrated with the services provided within the city, except that these terms do not include "cable service", as defined in the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992 (47 USC 521 et seq.) and the Telecommunications Act of 1996. Telecommunications service or services also includes an open video service.

TELECOMMUNICATIONS SYSTEM OR SYSTEM: All conduits, manholes, poles, antennas, transceivers, amplifiers and all other electronic devices, equipment, wire and appurtenances owned, leased or used by a provider, located in the rights of way and utilized in the provision of services, including fully digital or analog, voice, data and video imaging and other enhanced telecommunications services. Telecommunications system or systems also includes an open video system.

WIRE: Fiber optic telecommunications cable, wire, coaxial cable or other transmission medium that may be used in lieu thereof for similar purposes.

Adopted by Ord. 98-1 on 2/11/1998

7-6-3: ADMINISTRATION; GENERAL PROVISIONS

- A. **Conflicts:** In the event of a conflict between any provision of this chapter and a franchise entered pursuant to it, the provisions of this chapter in effect at the time the franchise is entered into shall control.
- B. **New Developments:** It shall be the policy of the city to liberally amend this chapter, upon application of a provider, when necessary to enable the provider to take advantage of any developments in the field of telecommunications which will afford the provider an opportunity to more effectively, efficiently or economically serve itself or the public.
- C. **Notices:** All notices from a provider to the city required under this chapter or pursuant to a franchise granted pursuant to this chapter shall be directed to the officer as designated by the mayor and/or city council. A provider shall provide in any application for a franchise the identity, address and phone number of the person designated to receive notices from the city. A provider shall immediately notify the city of any change in its name, address or telephone number.
- D. **Exercise Of Police Power:** To the full extent permitted by applicable law either now or in the future, the city reserves the right to adopt or issue such rules, regulations, orders or other directives that it finds necessary or appropriate in the lawful exercise of its police powers.
- E. **Construction:**
 - 1. **Federal And State Statutes:** This chapter shall be construed in a manner consistent with all applicable federal and state statutes.
 - 2. **Applicability:** This chapter shall apply to all franchises granted or renewed after the effective date hereof. This chapter shall further apply, to the extent permitted by applicable federal or state law, to all existing franchises granted prior to the effective date hereof and to a provider providing services, without a franchise, prior to the effective date hereof.
 - 3. **Other Applicable Ordinances:** A provider's rights are subject to the police powers of the city to adopt and enforce ordinances necessary to the health, safety and welfare of the public. A provider shall comply with all applicable general laws and ordinances enacted by the city pursuant to its police powers. In particular, all providers shall comply with the city zoning and other land use requirements.
 - 4. **City Failure To Enforce:** A provider shall not be relieved of its obligation to comply with any of the provisions of this chapter or any franchise granted pursuant to this chapter by reason of any failure of the city to enforce prompt compliance.
 - 5. **Construed According To Utah Law:** This chapter and any franchise granted pursuant to this chapter shall be construed and enforced in accordance with the substantive laws of the state.

*Adopted by Ord. 98-1 on 2/11/1998
Amended by Ord. 2001 Code on 1/1/2001*

7-6-4: APPLICABILITY; EXCEPTIONS

- A. **Providers:** This chapter shall provide the basic local scheme for providers of telecommunications services and systems that require the use of the rights of way, including providers of both the system and service, those providers of the system only and those providers who do not build the system but who only provide services. This chapter shall apply to all future providers and to all providers in the city prior to the effective date hereof, whether operating with or without a franchise as set forth in subsection 7-6-3E2 of this chapter.
- B. **Excluded Activities:**
 - 1. **Cable Television Operators:** This chapter shall not apply to cable television operators otherwise regulated by the cable television ordinance.
 - 2. **Wireless Service Facilities:** This chapter shall not apply to personal wireless service facilities.

- C. Excluded Providers; Provisions Applicable: Providers excused by other law that prohibits the city from requiring a franchise shall not be required to obtain a franchise, but all of the requirements imposed by this chapter through the exercise of the city's police power and not preempted by other law shall be applicable.

Adopted by Ord. 98-1 on 2/11/1998

7-6-5: FRANCHISE REQUIRED

- A. Nonexclusive Franchise; Authority: The city is empowered and authorized to issue nonexclusive franchises governing the installation, construction and maintenance of systems in the city's rights of way, in accordance with the provisions of this chapter. The franchise is granted through a franchise agreement entered into between the city and provider.
- B. Provider Required To Obtain: Except to the extent preempted by federal or state law, as ultimately interpreted by a court of competent jurisdiction, including any appeals, every provider must obtain a franchise prior to constructing a telecommunications system or providing telecommunications services using the rights of way, and every provider must obtain a franchise before constructing an open video system or providing open video services via an open video system. Any open video system or service shall be subject to the customer service and consumer protection provisions applicable to the cable tv companies to the extent the city is not preempted or permitted as ultimately interpreted by a court of competent jurisdiction, including any appeals. The fact that particular telecommunications systems may be used for multiple purposes does not obviate the need to obtain a franchise for other purposes. By way of illustration and not limitation, a cable operator of a cable system must obtain a cable franchise, and, should it intend to provide telecommunications services over the same system, must also obtain a telecommunications franchise.
- C. Nature Of Grant: A franchise shall not convey title, equitable or legal, in the rights of way. A franchise is only the right to occupy rights of way on a nonexclusive basis for the limited purposes and for the limited period stated in the franchise; the right may not be subdivided, assigned or subleased. A franchise does not excuse a provider from obtaining appropriate access or pole attachment agreements before collocating its system on the property of others, including the city's property. This subsection shall not be construed to prohibit a provider from leasing conduit to another provider, so long as the lessee has obtained a franchise.
- D. Current Providers; Time Limit To Request: Except to the extent exempted by federal or state law, any provider acting without a franchise on the effective date hereof shall request issuance of a franchise from the city within ninety (90) days of the effective date hereof. If such request is made, the provider may continue providing service during the course of negotiations. If a timely request is not made, or if negotiations cease and a franchise is not granted, the provider shall comply with the provisions of subsection [7-6-12D](#) of this chapter.
- E. Nature Of Franchise: The franchise granted by the city under the provisions of this chapter shall be a nonexclusive franchise providing the right and consent to install, repair, maintain, remove and replace its system on, over and under the rights of way in order to provide services.
- F. Regulatory Approval Needed: Before offering or providing any services pursuant to the franchise, a provider shall obtain any and all regulatory approvals, permits, authorizations or licenses for the offering or provision of such services from the appropriate federal, state and local authorities, if required, and shall submit to the city, upon the written request of the city, evidence of all such approvals, permits, authorizations or licenses.
- G. Term: No franchise issued pursuant to this chapter shall have a term of less than five (5) years or greater than fifteen (15) years. Each franchise shall be granted in a nondiscriminatory manner.

Adopted by Ord. 98-1 on 2/11/1998

7-6-6: APPLICATION FOR FRANCHISE

- A. Required; Form: To obtain a franchise to construct, own, maintain or provide services through any system within the city, to obtain a renewal of a franchise granted pursuant to this chapter or to obtain the city approval of a transfer of a franchise, as provided in subsection [7-6-11A2](#) of this chapter, granted pursuant to this chapter, an application must be filed with city on the form attached to the ordinance codified herein as Exhibit A, which is hereby incorporated by reference. The application form may be changed by the mayor so long as such changes request information that is consistent with this chapter. Such application form, as amended, is incorporated by reference.
- B. Criteria: In making a determination as to an application filed pursuant to this chapter, the city may, but shall not be limited to, request the following from the provider:
1. A copy of the order from the PSC granting a certificate of convenience and necessity.
 2. Certification of the provider's financial ability to compensate the city for provider's intrusion, maintenance and use of the rights of way during the franchise term proposed by the provider.
 3. Provider's agreement to comply with the requirements of section [7-6-9](#) of this chapter.
- C. Determination By City: The city, in its discretion, shall determine the award of any franchise on the basis of these and other considerations relevant to the use of the rights of way, without competitive bidding.

Adopted by Ord. 98-1 on 2/11/1998

7-6-7: COMPENSATION, FEES AND PAYMENTS

- A. Compensation; Provider Obligations: As fair and reasonable compensation for any franchise granted pursuant to this chapter, a provider shall have the following obligations:
1. Application Fee: In order to offset the cost to the city to review an application for a franchise and in addition to all other fees, permits or charges, a provider shall pay to the city, at the time of application, five hundred dollars (\$500.00) as a nonrefundable application fee.
 2. Franchise Fee: The franchise fee, if any, shall be set forth in the franchise agreement. The obligation to pay a franchise fee shall commence on the completion date. The franchise fee is offset by any business license fee or business license tax enacted by the city.
 3. Excavation Permits: The provider shall also pay fees required for an excavation permit as provided in [chapter 3](#) of this title.
- B. Due Monthly: Unless otherwise agreed to in the franchise agreement, all franchise fees shall be paid on a monthly basis within forty five (45) days of the close of each calendar month.
- C. Statement Of Calculation; Certification: Unless a franchise agreement provides otherwise, each fee payment shall be accompanied by a statement showing the manner in which the fee was calculated and shall be certified as to its accuracy.
- D. Future Costs: A provider shall pay to the city or to third parties, at the direction of the city, an amount equal to the reasonable costs and reasonable expenses that the city incurs for the services of third parties (including, but not limited to, attorneys and other consultants) in connection with any renewal or provider-initiated renegotiation, or amendment of this chapter or a franchise; provided, however, that the parties shall agree upon a reasonable financial cap at the outset of negotiations. In the event the parties are unable to agree, either party may submit the issue to binding arbitration in accordance with the rules and procedures of the American Arbitration Association.
- E. Taxes, Assessments: To the extent taxes or other assessments are imposed by taxing authorities, other than the city, on the use of the city property as a result of a provider's use or occupation of the rights of way, the provider shall be responsible for payment of its pro rata share of such taxes, payable annually unless otherwise required by the taxing authority. Such payments shall be in addition to any other fees payable pursuant to this chapter.

- F. Interest On Late Payments: In the event that any payment is not actually received by the city on or before the applicable date fixed in the franchise, interest thereon shall accrue from such date until received at the rate charged for delinquent state taxes.
- G. Acceptance Of Fee; Not Construed Satisfaction: No acceptance by the city of any fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of such fee payment be construed as a release of any claim the city may have for additional sums payable.
- H. Additional Taxes Or Fees Still Applicable: The fee payment is not a payment in lieu of any tax, fee or other assessment, except as specifically provided in this chapter or as required by applicable law. By way of example, and not limitation, excavation permit fees and fees to obtain space on the city-owned poles are not waived and remain applicable.
- I. Operation After Term; Continuing Obligation And Holdover: In the event a provider continues to operate all or any part of the system after the term of the franchise, such operator shall continue to comply with all applicable provisions of this chapter and the franchise, including, without limitation, all compensation and other payment provisions throughout the period of such continued operation; provided, that any such continued operation shall in no way be construed as a renewal or other extension of the franchise, nor as a limitation on the remedies, if any, available to the city as a result of such continued operation after the term, including, but not limited to, damages and restitution.
- J. Publication Costs: A provider shall assume any publication costs associated with its franchise that may be required by law.

Adopted by Ord. 98-1 on 2/11/1998

7-6-8: INSURANCE, RECORD REQUIREMENTS

- A. Insurance Required: Prior to the execution of a franchise, a provider will deposit with the city an irrevocable, unconditional letter of credit or surety bond as required by the terms of the franchise, and shall obtain and provide proof of the insurance coverage required by the franchise. A provider shall also indemnify the city as set forth in the franchise.
- B. Inspection By City; Management: The city shall have the right to oversee, regulate and inspect periodically the construction, maintenance and upgrade of the system, and any part thereof, in accordance with the provisions of the franchise and applicable law. A provider shall establish and maintain managerial and operational records, standards, procedures and controls to enable a provider to prove, in reasonable detail, to the satisfaction of the city at all times throughout the term, that a provider is in compliance with the franchise. A provider shall retain such records for not less than the applicable statute of limitations.
- C. Records Maintenance: A provider shall at all times maintain:
 - 1. On file with the city, a full and complete set of plans, records and as-built hard copy maps and, to the extent the maps are placed in an electronic format, they shall be made in electronic format compatible with the city's existing GIS system, of all existing and proposed installations and the types of equipment and systems installed or constructed in the rights of way, properly identified and described as to the types of equipment and facility by appropriate symbols and marks, which shall include annotations of all rights of ways where work will be undertaken. As used herein, as-built maps include file construction prints. Maps shall be drawn to scale. As-built maps, including the compatible electronic format, as provided above, shall be submitted within thirty (30) days of completion of work or within thirty (30) days after completion of modification and repairs. As-built maps are not required of the provider who is the incumbent local exchange carrier for the existing system to the extent they do not exist.
 - 2. Throughout the term of the franchise, a provider shall maintain complete and accurate books of account and records of the business, ownership and operations of a provider with respect to the system in a manner that allows the city at all times to determine whether a provider is in compliance with the franchise. Should the city reasonably determine that the records are not being maintained in such a manner, a provider shall alter the manner in which the books and/or records are maintained so that a provider comes into compliance with this section. All financial books and records which are maintained in accordance with the regulations of the FCC and any governmental entity that regulates utilities in the state and generally accepted accounting principles shall be deemed to be acceptable under this section.
- D. Confidentiality: If the information required to be submitted is proprietary in nature or must be kept confidential by federal, state or local law, upon proper request by a provider, such information shall be classified as a protected record within the meaning of the Utah Government Records Access and Management Act (GRAMA), making it available only to those who must have access to perform their duties on behalf of the city; provided, that a provider notifies the city of, and clearly labels the information which a provider deems to be confidential, proprietary information. Such notification and labeling shall be the sole responsibility of the provider.
- E. Provider's Expense: All reports and records required under this chapter shall be furnished at the sole expense of a provider, except as otherwise provided in this chapter or a franchise.
- F. Right Of Inspection: For the purpose of verifying the correct amount of the franchise fee, the books and records of the provider pertaining thereto shall be open to inspection or audit by duly authorized representatives of the city at all reasonable times, upon giving reasonable notice of the intention to inspect or audit the books and records; provided, that the city shall not audit the books and records of the provider more often than annually. The provider agrees to reimburse the city the reasonable costs of an audit if the audit discloses that the provider has paid ninety five percent (95%) or less of the compensation due the city for the period of such audit. In the event the accounting rendered to the city by the provider herein is found to be incorrect, then payment shall be made on the corrected amount within thirty (30) calendar days of written notice, it being agreed that the city may accept any amount offered by the provider, but the acceptance thereof by the city shall not be deemed a settlement of such item if the amount is in dispute or is later found to be incorrect.

Adopted by Ord. 98-1 on 2/11/1998

7-6-9: CONSTRUCTION, TECHNICAL REQUIREMENTS

- A. Compliance Required; Excavation Permit: No provider shall receive a franchise unless it agrees to comply with each of the terms set forth in this section governing construction and technical requirements for its system, in addition to any other reasonable requirements or procedures specified by the city or the franchise, including requirements regarding locating and sharing in the cost of locating portions of the system with other systems or with city utilities. A provider shall obtain an excavation permit, pursuant to the excavation ordinance, as provided in [chapter 3](#) of this title, before commencing any work in the rights of way.
- B. Quality And Performance Of Work: All work involved in the construction, maintenance, repair, upgrade and removal of the system shall be performed in a safe, thorough and reliable manner, using materials of good and durable quality. If, at any time, it is determined by the FCC or any other agency granted authority by federal law or the FCC to make such determination, that any part of the system, including, without limitation, any means used to distribute signals over or within the system, is harmful to the public health, safety or welfare, or quality of service or reliability, then a provider shall, at its own cost and expense, promptly correct all such conditions.
- C. Licenses And Permits: A provider shall have the sole responsibility for diligently obtaining, at its own cost and expense, all permits, licenses or other forms of approval or authorization necessary to construct, maintain, upgrade or repair the system, including, but not limited to, any necessary approvals from persons and/or the city to use private property, easements, poles and conduits. A provider shall obtain any required permit, license, approval or authorization, including, but not limited to, excavation permits, pole attachment agreements, etc., prior to the commencement of the activity for which the permit, license, approval or authorization is required.
- D. Relocation Of System:
 - 1. New Grades Or Lines; Excavation Requirements: If the grades or lines of any rights of way are changed at any time in a manner affecting the

- system, then a provider shall comply with the requirements of the excavation ordinance, as provided in chapter 3 of this title.
2. **Emergency; City Authority To Move System:** The city may, at any time, in case of fire, disaster or other emergency, as determined by the city in its reasonable discretion, cut or move any parts of the system and appurtenances on, over or under the rights of way of the city, in which event the city shall not be liable therefor to a provider. The city shall notify a provider in writing prior to, if practicable, but in any event as soon as possible and in no case later than the next business day following any action taken under this section. Notice shall be given as provided in subsection [7-6-3C](#) of this chapter.
 3. **Temporary Move For Third Party:** A provider shall, upon prior reasonable written notice by the city or any person holding a permit to move any structure, and within the time that is reasonable under the circumstances, temporarily move any part of its system to permit the moving of said structure. A provider may impose a reasonable charge on any person other than the city for any such movement of its systems.
 4. **Change In Rights Of Way; Obligation To Move System:** When the city is changing a right of way and makes a written request, a provider is required to move or remove its system from the right of way, without cost to the city, to the extent provided in the excavation ordinance, as provided in [chapter 3](#) of this title. This obligation does not apply to systems originally located on private property pursuant to a private easement, which property was later incorporated into the rights of way, if that private easement grants a superior vested right. This obligation exists whether or not the provider has obtained an excavation permit.
- E. **Protection Of Structures, Landmarks:** In connection with the construction, maintenance, repair, upgrade or removal of the system, a provider shall, at its own cost and expense, protect any and all existing structures belonging to the city and all designated landmarks, as well as all other structures within any designated landmark district. A provider shall obtain the prior written consent of the city to alter any water main, power facility, sewerage or drainage system, or any other city structure on, over or under the rights of way of the city required because of the presence of the system. Any such alteration shall be made by the city or its designee on a reimbursable basis. A provider agrees that it shall be liable for the costs incurred by the city to replace or repair and restore to its prior condition in a manner as may be reasonably specified by the city, any city structure or any other rights of way of the city involved in the construction, maintenance, repair, upgrade or removal of the system that may become disturbed or damaged as a result of any work thereon by or on behalf of a provider pursuant to the franchise.
- F. **Obstructions Prohibited:** In connection with the construction, maintenance, upgrade, repair or removal of the system, a provider shall not unreasonably obstruct the rights of way of fixed guideway systems, railways, passenger travel or other traffic to, from or within the city without the prior consent of the appropriate authorities.
- G. **Safety Precautions:** A provider shall, at its own cost and expense, undertake all necessary and appropriate efforts to prevent accidents at its work sites, including the placing and maintenance of proper guards, fences, barricades, security personnel and suitable and sufficient lighting, and such other requirements prescribed by OSHA and Utah OSHA. A provider shall comply with all applicable federal, state and local requirements, including, but not limited to, the National Electrical Safety Code.
- H. **Repair Of Rights Of Way:** After written reasonable notice to the provider, unless, in the sole determination of the city, an eminent danger exists, any rights of way within the city which are disturbed or damaged during the construction, maintenance or reconstruction by a provider of its system may be repaired by the city at the provider's expense, to a condition as good as that prevailing before such work was commenced. Upon doing so, the city shall submit to such a provider an itemized statement of the cost for repairing and restoring the rights of ways intruded upon. The provider shall, within thirty (30) days after receipt of the statement, pay to the city the entire amount thereof.
- I. **Maintenance Of System:** A provider shall:
1. Install and maintain all parts of its system in a nondangerous condition throughout the entire period of its franchise.
 2. Install and maintain its system in accordance with standard prudent engineering practices and shall conform, when applicable, with the National Electrical Safety Code and all applicable other federal, state and local laws or regulations.
 3. At all reasonable times, permit examination by any duly authorized representative of the city of the system and its effect on the rights of way.
- J. **Trimming Trees; Authority:** A provider shall have the authority to trim trees, in accordance with all applicable utility restrictions, ordinance and easement restrictions, upon and hanging over rights of way so as to prevent the branches of such trees from coming in contact with its system.

Adopted by Ord. 98-1 on 2/11/1998

7-6-10: PRIVATE PROPERTY; OBLIGATION TO NOTIFY

Before entering onto any private property, a provider shall make a good faith attempt to contact the property owners in advance and describe the work to be performed.

Adopted by Ord. 98-1 on 2/11/1998

7-6-11: TRANSFER OF FRANCHISE AND LICENSE

A. Notification Of Sale:

1. **PSC Approval:** When a provider is the subject of a sale, transfer, lease, assignment, sublease or disposal, in whole or in part, either by force or involuntary sale, or by ordinary sale, consolidation or otherwise, such that it or its successor entity is obligated to inform or seek the approval of the PSC, the provider or its successor entity shall promptly notify the city of the nature of the transaction. The notification shall include either:
 - a. The successor entity's certification that the successor entity unequivocally agrees to all of the terms of the original provider's franchise agreement; or
 - b. The successor entity's application, in compliance with section [7-6-6](#) of this chapter.
2. **Transfer Of Franchise:** Upon receipt of a notification and certification in accordance with subsection A1a of this section, the city designee, as provided in subsection [7-6-12A1](#) of this chapter, shall send notice affirming the transfer of the franchise to the successor entity. If the city has good cause to believe that the successor entity may not comply with this chapter or the franchise agreement, it may require an application for the transfer. The application shall comply with section [7-6-6](#) of this chapter.
3. **If Approval No Longer Required:** If the PSC no longer exists or if its regulations or state law no longer require approval of transactions described in subsection A1 of this section, and the city has good cause to believe that the successor entity may not comply with this chapter or the franchise agreement, it may require an application. The application shall comply with section [7-6-6](#) of this chapter.

B. Events Of Sale: The following events shall be deemed to be a sale, assignment or other transfer of the franchise requiring compliance with subsection A1 of this section:

1. The sale, assignment or other transfer of all or a majority of a provider's assets to another person;
2. The sale, assignment or other transfer of capital stock or partnership, membership or other equity interests in a provider by one or more of its existing shareholders, partners, members or other equity owners so as to create a new controlling interest in a provider;
3. The issuance of additional capital stock or partnership, membership or other equity interest by a provider so as to create a new controlling interest in such a provider; or
4. The entry by a provider into an agreement with respect to the management or operation of such provider or its system.

7-6-12: ENFORCEMENT; RIGHTS OF CITY

A. Enforcement; Remedies:

1. City Designee: The city is responsible for enforcing and administering this chapter and the city or its designee, as appointed by the mayor, is authorized to give any notice required by law or under any franchise agreement.
2. Enforcement Provisions: Any franchise granted pursuant to this chapter shall contain appropriate provisions for enforcement, compensation and protection of the public, consistent with the other provisions of this chapter, including, but not limited to, defining events of default, procedures for accessing the bond/security fund and rights of termination or revocation.

B. Force Majeure: In the event a provider's performance of any of the terms, conditions or obligations required by this chapter or a franchise is prevented by a cause or event not within a provider's control, such inability to perform shall be deemed excused and no penalties or sanctions shall be imposed as a result thereof. For the purpose of this subsection, causes or events not within the control of a provider shall include, without limitation, acts of God, strikes, sabotage, riots or civil disturbances, failure or loss of utilities, explosions, acts of public enemies and natural disasters such as floods, earthquakes, landslides and fires.

C. Extended Operation; Continuity Of Services:

1. Continuation After Expiration: Upon either expiration or revocation of a franchise granted pursuant to this chapter, the city shall have discretion to permit a provider to continue to operate its system or provide services for an extended period of time not to exceed six (6) months from the date of such expiration or revocation. A provider shall continue to operate its system under the terms and conditions of this chapter and the franchise granted pursuant to this chapter.
2. Incumbent Local Exchange Carrier; Negotiate Renewal: If the provider is the incumbent local exchange carrier, it shall be permitted to continue to operate its system and provide services without regard to revocation or expiration, but shall be obligated to negotiate a renewal in good faith.

D. Removal Or Abandonment Of Franchise Property:

1. Abandoned System: In the event that: a) the use of any portion of the system is discontinued for a continuous period of twelve (12) months and thirty (30) days after no response to written notice from the city to the last known address of provider; b) any system has been installed in the rights of way without complying with the requirements of this chapter or franchise; or c) the provisions of subsection 7-6-5D of this chapter are applicable and no franchise is granted, a provider, except the provider who is an incumbent local exchange carrier, shall be deemed to have abandoned such system.
2. Removal Of Abandoned System: The city, upon such terms as it may impose, may give a provider written permission to abandon, without removing, any system, or portion thereof, directly constructed, operated or maintained under a franchise. Unless such permission is granted or unless otherwise provided in this chapter, a provider shall remove within a reasonable time the abandoned system and shall restore, using prudent construction standards, any affected rights of way to their former state at the time such system was installed, so as not to impair their usefulness. In removing its plant, structures and equipment, a provider shall refill, at its own expense, any excavation necessarily made by it and shall leave all rights of way in as good condition as that prevailing prior to such removal without materially interfering with any electrical or telephone cable or other utility wires, poles or attachments. The city shall have the right to inspect and approve the condition of the rights of way cables, wires, attachments and poles prior to and after removal. The liability, indemnity and insurance provisions of this chapter and any security fund provided in a franchise shall continue in full force and effect during the period of removal and until full compliance by a provider with the terms and conditions of this section.
3. Transfer Of Abandoned System To City: Upon abandonment of any system in place, a provider, if required by the city, shall submit to the city a written instrument, satisfactory in form to the city, transferring to the city the ownership of the abandoned system.
4. Removal Of Aboveground System: At the expiration of the term for which a franchise is granted, or upon its revocation or earlier expiration, as provided for by this chapter, in any such case without renewal, extension or transfer, the city shall have the right to require a provider to remove, at its expense, all aboveground portions of a system from the rights of way within a reasonable period of time, which shall not be less than one hundred eighty (180) days. If the provider is the incumbent local exchange carrier, it shall not be required to remove its system, but shall negotiate a renewal in good faith.
5. Leaving Underground System: Notwithstanding anything to the contrary set forth in this chapter, a provider may abandon any underground system in place so long as it does not materially interfere with the use of the rights of way or with the use thereof by any public utility, cable operator or other person.

7-6-13: SEVERABILITY

If any provision of this chapter is held by any federal, state or local court of competent jurisdiction to be invalid as conflicting with any federal or state statute, or is ordered by a court to be modified in any way in order to conform to the requirements of any such law and all appellate remedies with regard to the validity of the ordinance provisions in question are exhausted, such provision shall be considered a separate, distinct and independent part of this chapter, and such holding shall not affect the validity and enforceability of all other provisions hereof. In the event that such law is subsequently repealed, rescinded, amended or otherwise changed, so that the provision which had been held invalid or modified is no longer in conflict with such law, the provision in question shall return to full force and effect and shall again be binding on the city and the provider; provided, that the city shall give the provider thirty (30) days', or a longer period of time as may be reasonably required for a provider to comply with such a rejuvenated provision, written notice of the change before requiring compliance with such provision.

Title 8 - WATER REGULATIONS

Chapter 1: WATER USE AND SERVICE

Chapter 2: BACKFLOW AND CROSS-CONNECTIONS

Chapter 1: WATER USE AND SERVICE

8-1-1: WATER DEPARTMENT

8-1-2: APPLICATIONS FOR CONNECTION, SERVICE

8-1-3: FEES

8-1-4: STATEMENT OF CHARGES; DELINQUENCY

8-1-5: DISCONTINUANCE OF SERVICE

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8-1-17: ABANDONED SYSTEMS

8-1-18: SERVICE OUTSIDE CITY

8-1-19: NONLIABILITY FOR DAMAGES

8-1-1: WATER DEPARTMENT

- A. Creation: The water department of the city is hereby created. It shall administer the operation and maintenance of the water system of the city.
- B. Superintendent: There is hereby created the position of superintendent of the water department.
- C. Duties: The superintendent of the water system shall manage and supervise the city water system pursuant to the provisions of this chapter and pursuant to resolutions, rules and regulations adopted by the city council from time to time prescribing his powers and duties and directing the manner and frequency with which he shall make reports to the mayor relating to the water system. All of the functions and activities of the superintendent shall be carried on under the direction of the mayor.

Adopted by Ord. 1976 Code §§ 14-110, 14-111, 14-112 on 1/1/1976

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 application has been approved by the city council and on file at the city office. Said application form shall be adopted by resolution.
- 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 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 application has been approved by the city council and on file at the city office. Said application form shall be adopted by resolution.
- D. Nonowner Applicants; Agreement Of Owner: Applications for water service made by the tenant of an owner must, in addition to the above requirements, be guaranteed by an agreement signed by the owner of the premises or his duly authorized agent, on such form which has been approved by the city council and on file at the city office. Said agreement form shall be adopted by resolution.

Adopted by Ord. 1976 Code §§ 14-113, 14-114, 14-115, 14-116 on 1/1/1976

Amended by Ord. 2001 Code on 1/1/2001

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 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.
- D. Returned Check Service Charge: A service charge shall be assessed for all checks returned by the issuer's bank unpaid, which have been issued to the city in connection with the city water system. Service charges shall be equal to any charges assessed the city by its depository bank for processing said unpaid check, together with an amount equal to fifty percent (50%) of bank charges. Said service charge may be added to the issuer's water account, to be paid upon assessment.

Adopted by Ord. 1976 Code §§ 14-117, 14-118, 14-119 on 1/1/1976

Amended by Res. 88 on 6/6/1988

8-1-4: STATEMENT OF CHARGES; DELINQUENCY

- A. Statement: The city shall furnish to each user, or mail to, or leave at their place of residence or usual place of business, a written or printed statement stating thereon the amount of water service charges assessed against them once each month or at such other regular interval as the city council shall direct.

- B. Failure To Pay: The statement shall specify the amount of the bill for the water service and the place of payment and date due. If any person fails to pay the water charges within thirty (30) days of the date due, the city shall give the customer notice in writing of intent to discontinue the service to the customer unless the customer pays the bill in full within five (5) days from the date of notice.
- C. Discontinued Service: 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 a resolution has been adopted, there shall be added an extra charge of twenty five dollars (\$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. Late Charge Assessed: A late charge shall be assessed at the rate as established by resolution of the city council.

*Adopted by Ord. 1976 Code § 14-121 on 1/1/1976
Amended by Res. 81-1 on 7/1/1981
Amended by Ord. 2001 Code on 1/1/2001*

8-1-5: DISCONTINUANCE OF SERVICE

Any customer desiring to discontinue service shall notify the city in writing of such fact at least ten (10) days before the date when such service shall be discontinued. On giving such written notice, the customer shall not be responsible for water bills incurred after the date specified in the notice. Any credit balance in favor of the customer as a result of an advance payment of bills or a deposit made will be refunded upon discontinuation of service.

Adopted by Ord. 1976 Code § 14-141 on 1/1/1976

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.

Adopted by Ord. 1976 Code § 14-120 on 1/1/1976

8-1-7: USE WITHOUT AUTHORITY: RESTRICTIONS

- A. Turning On 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 city.
- B. Separate Connections: It shall be unlawful for two (2) 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 his premises or water facilities, either outside or inside his premises.
- D. Adjoining Premises: No consumer shall be permitted to conduct water pipes across lots or buildings to adjoining premises without permission from the water superintendent and subject to such requirements relating to controls as may be imposed by him.
- 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.

*Adopted by Ord. 1976 Code §§ 14-122, 14-123, 14-124, 14-125, 14-127B on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

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 city.
- B. Application: Applications for permits to make water connections or other alteration or for laying or repairing lines connected directly or indirectly to the city water system must be made in writing by a licensed contractor, his authorized agent, or by the owner of the premises who shall describe the nature of the work to be done for which the application is made.
- C. Determination Of Approval: The application shall be granted if the city 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 city.
- 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 line of the customer. The cost of reconnecting such new line or lines from the house of the customer to their property line shall be borne by the customer.
- G. Plumbing Requirements: Permission to connect to 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.

*Adopted by Ord. 1976 Code §§ 14-137, 14-138, 14-139, 14-140 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

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 city, 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 city, and no connections with any water mains shall be made without first obtaining a permit therefor from the city.

*Adopted by Ord. 1976 Code §§ 14-126, 14-127A on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

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 description of such 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 city. The city council may grant or deny the petition as in its discretion deems 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 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 city, shall be deposited with the city treasurer before any work shall be done on such extension. The deposit shall be made within thirty (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 cost is to be refunded and the manner and circumstances under which such refund shall be made or credited to the applicant, his 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 one year after the depositor has discontinued water service, the deposit may be forfeited and then transferred to the water utility fund.
- F. Ownership Of Extension: Any such extension shall be deemed the property of the city.

*Adopted by Ord. 1976 Code §§ 14-143, 14-144, 14-145, 14-146, 14-147 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

8-1-11: ACCESS BY DEPARTMENT

The water superintendent and his 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.

Adopted by Ord. 1976 Code § 14-130 on 1/1/1976

8-1-12: 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.

Adopted by Ord. 1976 Code § 14-132 on 1/1/1976

8-1-13: 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.

Adopted by Ord. 1976 Code § 14-142 on 1/1/1976

8-1-14: 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, his family, servants or agents to violate any proclamation made by the mayor in pursuance of this chapter.

Adopted by Ord. 1976 Code § 14-134 on 1/1/1976

8-1-15: 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 sprinkler 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.

Adopted by Ord. 1976 Code § 14-133 on 1/1/1976

8-1-16: 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 those for which they have applied, or to use water in violation of the rules and regulations for controlling the water supply.
- B. Refer To City Council: Users of water from the city water system shall not permit water to continue to run wastefully and without due effort to conserve water. If, in the judgment of the water superintendent or of any of the officers of the city, a user of city water engages in practices which result in the needless waste of water and continues to do so after reasonable notice to discontinue wastefulness has been given, the superintendent or any officer may refer the matter to the city council.
- C. Termination Of Service; Meeting: The city council may thereupon consider terminating the right of the individual to use culinary water. If it elects to consider the matter of termination, it shall give notice to the water user of the intention to terminate his water connection at least ten (10) days prior to the meeting of the city council at which termination of water service is to be considered. The notice shall inform him of the time and place of the meeting and the charges which lead to the consideration of the termination.
- D. Appearance By Water User: A water user whose right to utilize city water is being reviewed shall have opportunity to appear with or without counsel and present the reasons why his water service should not be discontinued.
- E. Determination: After due hearing, the city council may arrive at a determination. If the determination is to discontinue the wasteful water user's service connection, the city council shall notify him of the decision and of the period during which the service will remain discontinued.

*Adopted by Ord. 1976 Code §§ 14-128, 14-135 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

8-1-17: ABANDONED SYSTEMS

- A. Declared In Writing: All unused, old and abandoned water connections must be declared to the city recorder in writing within sixty (60) days of the passage date hereof.
- B. Turn-On Fee: All unused, old and abandoned water connections shall be charged a turn-on fee of twenty five dollars (\$25.00) per year or portion thereof, which fee shall be accumulative from January 1, 1980 until the date turned on.
- C. Fee For Bringing Connection Up-To-Date: Before any unused, old and abandoned water connections can become usable or the classification of any said connections can be changed to field connections, residential connections or commercial connections, a fee, to be established by the city, must be paid in advance to the city for all labor and material used to bring this connection to date with current connection policies.
- D. Accounting; Refund: An accounting of the fees established by the city will be made to the owner of said connection. Credit will be given to the owner of said connection's water account or a cash refund will be given.

*Adopted by Ord. 80-5 on 9/8/1980
Amended by Ord. 2001 Code on 1/1/2001*

8-1-18: 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 service from the city water system and is willing to pay in advance the whole expense of extending the water system to his 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 superintendent. 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 acknowledgement 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 city 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 (10%) 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 superintendent 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.

*Adopted by Ord. 1976 Code §§ 14-151, 14-152, 14-153, 14-154, on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

8-1-19: 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 his or her 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.

Adopted by Ord. 1976 Code § 14-131 on 1/1/1976

Chapter 2: BACKFLOW AND CROSS-CONNECTIONS

- 8-2-1: GENERAL PURPOSES
- 8-2-2: DEFINITIONS
- 8-2-3: RESPONSIBILITIES
- 8-2-4: REQUIREMENTS
- 8-2-5: DISCONTINUANCE OF SERVICE

8-2-1: 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 with state and local plumbing codes, health regulations and other applicable industry standards for water system safety within the consumer's internal distribution system or private water systems. 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; and

- 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, and other applicable industry standards to assure water system safety; and
- 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.

Adopted by Ord. 91-1 on 1/14/1991

8-2-2: DEFINITIONS

As used in this chapter, the following terms shall have the meanings specified, unless a different meaning is clearly evident from the context:

APPROVED BACKFLOW ASSEMBLY: Accepted by the Utah Department of Health, Bureau of Drinking Water/Sanitation, as meeting an applicable specification or as suitable for the proposed use.

AUXILIARY WATER SUPPLY: Any water supply on or available to the premises other than the city's public water supply will be considered as an auxiliary water supply. These auxiliary waters may include water from another purveyor's public potable water supply or any natural source such as a well, spring, river, stream, harbor, etc., or "used waters" or "industrial fluids". These waters may be contaminated or polluted or they may be objectionable and constitute an unacceptable water source over which the city does not have authority for sanitary control.

BACK PRESSURE: The flow of water or other liquids, mixtures or substances under pressure into the feeding distribution pipes of a potable water supply system from any source other than the intended source.

BACK SIPHONAGE: The flow of water or other liquids, mixtures or substances into the distribution pipes of a potable water supply system from any source other than the intended source, caused by the reduction of pressure in the potable water supply system.

BACKFLOW: The reversal of the normal flow of water caused by either back pressure or back siphonage.

BACKFLOW PREVENTION ASSEMBLY: An assembly or means designed to prevent backflow. Specifications for backflow prevention assemblies are contained within the Utah Plumbing Code, chapter 10, (appendix J), or subsequently-adopted substitute provisions, and the cross-connection control program for Utah.

CONTAMINATION: A degradation of the quality of the potable water supply by nonpotable water, sewage, industrial fluids or waste liquids, compounds or other materials.

CROSS-CONNECTION: 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 (4) way plug valves, spools, dummy sections of pipe, swivel or change-over devices or sliding multi-port tubes or other plumbing arrangements.

CROSS-CONNECTION, CONTAINMENT: The installation of an approved backflow assembly at the water service connection to any customer's premises where it is physically and economically infeasible to find and permanently eliminate or control all actual or potential cross-connections within the customer's water system; or, it shall mean the installation of an approved backflow prevention assembly on the service line leading to and supplying a portion of a customer's water system where there are actual or potential cross-connections which cannot be effectively eliminated or controlled at the point of the cross-connection (isolation).

CROSS-CONNECTION, CONTROLLED: A connection between a potable water system and a nonpotable water system with an approved backflow prevention assembly properly installed and maintained so that it will continuously afford the protection commensurate with the degree of hazard.

WATER OFFICIAL: The person designated to be in charge of the water department of the city, is vested with the authority and responsibility for the implementation of an effective cross-connection control program and for the enforcement of the provisions of this chapter.

Adopted by Ord. 91-1 on 1/14/1991

8-2-3: RESPONSIBILITIES

A. City:

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 of 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: It shall be the responsibility of the consumer to:

1. Pay any extra cost on lines larger than three-fourths inch ($\frac{3}{4}$ ").
2. Comply with this chapter as a term and condition of supply and consumer's acceptance of service is admittance of his/her awareness.
3. Allow installation, testing and maintenance of any backflow prevention device or assembly required to comply with this chapter.

C. Water Official:

1. The water official's responsibility to enforce the applicable sections of the plumbing code begins at the point of service (consumer side of the meter) and continues throughout the developed length of the consumer's water system.
2. The city officials responsible 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 Utah 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 Utah 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 water official and the bureau of drinking water/sanitation on forms approved for such use by the bureau of drinking water/sanitation, and within the time frames prescribed by the city.
 - c. The report 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.
 - f. A certified technician shall perform all tests of the mechanical devices or assemblies and be responsible for the competence and accuracy of all tests and reports.
 - g. Ensuring his license is current, the testing equipment being used is acceptable to the state, and is in proper operating condition.
 - h. Be equipped with, and be competent to use, all necessary tools, gauges and other equipment necessary to properly test and maintain backflow prevention assemblies.
 - i. The certified technician conducting the test must tag each double-check valve, pressure-vacuum breaker, reduced-pressure backflow assembly and high-hazard air gap, showing the serial number, date tested and by whom. The technician's license number must also be on this tag.
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 and the city. If such a commercially-tested assembly is in need of repair, a licensed plumber shall make the actual repair.

Adopted by Ord. 91-1 on 1/14/1991

Amended by Ord. 2001 Code on 1/1/2001

8-2-4: REQUIREMENTS

- A. Protection Of Water Supply: No water service connection to any premises shall be installed or maintained by the city 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 official 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; or
 2. If it is found that a backflow prevention assembly has been removed or bypassed; or
 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 official 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 (subsection 8-2-3A2 of this chapter).
- C. Installation Of Approved Prevention Assembly: Whenever the public water official 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 to local and state requirements resulting from the required survey.
- E. Previously-Approved Assemblies: All presently-installed backflow prevention assemblies which do not meet the requirements of this section but were approved assemblies for the purposes described herein at the time of installation and which have been properly maintained shall, except for the inspection and maintenance requirements under subsection F of this section, be excluded from the requirements of these rules so long as the city 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 official 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 the 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 water official deems the hazard to be great, he may require certified surveys or inspections and tests at a more frequent interval. It shall be the duty of the water official 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 (10) working days of initial installation.

Adopted by Ord. 91-1 on 1/14/1991

Amended by Ord. 2001 Code on 1/1/2001

8-2-5: DISCONTINUANCE OF SERVICE

If violations of this chapter exist or if there has not been any corrective action taken by the consumer within ten (10) days of the written notification of deficiencies noted within the survey, then the water official 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.

Adopted by Ord. 91-1 on 1/14/1991

Title 9 - BUILDING REGULATIONS

Chapter 1: BUILDING CODE

Chapter 2: ELECTRICAL CODE

Chapter 3: PLUMBING CODE

Chapter 4: MECHANICAL CODE

Chapter 5: FIRE CODE

Chapter 1: BUILDING CODE

9-1-1: BUILDING CODE ADOPTED

9-1-2: BUILDING INSPECTOR

9-1-3: BUILDING PERMIT REQUIRED

9-1-4: FEE SCHEDULE

9-1-5: PENALTY; EXCEPTION

9-1-1: BUILDING CODE ADOPTED

The Uniform Building Code, 1997 edition, and any amendments thereto, published by the International Conference of Building Officials and printed as a code in book form, three (3) copies of which have previously been filed with the city recorder for use and examination by the public, hereby is approved and adopted as the building code of the city.

Adopted by Ord. 79-1 on 2/5/1979

Amended by Ord. 2001 Code on 1/1/2001

9-1-2: BUILDING INSPECTOR

- A. Created: There is hereby created the position of building official who shall also be known as the building inspector. The city may provide for the duties of the building inspector to be performed by contract with another agency.
- 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 the subdivision or zoning titles of the city. Work shall not be resumed after the issuance of such order, except on the written permission of the 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: 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 and [title 4](#) of this code.
- C. Duties: The building inspector shall, in addition to all other duties imposed on him by the city:
1. Enforce the provisions of the Uniform 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. Until such time as a plumbing inspector is appointed or designated, the building inspector shall be responsible for enforcing [chapter 3](#) of this title.
 4. Review all building permit applications for new construction or substantial improvements to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a location that has a flood hazard, any proposed new construction or substantial improvement (including prefabricated and mobile homes) must:
 - a. Be designed (or modified) and anchored to prevent flotation, collapse or lateral movement of the structure;
 - b. Use construction materials and utility equipment that are resistant to flood damage; and
 - c. Use construction methods and practices that will minimize flood damage.
 5. Review subdivision proposals and other proposed new developments to assure that:
 - a. All such proposals are consistent with the need to minimize flood damage;
 - b. All public utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage; and
 - c. Adequate drainage is provided so as to reduce exposure to flood hazards.
 6. Require new or replacement water supply systems and/or sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.

Adopted by Ord. 1976 Code §§ 9-511, 9-512, 9-513, 9-514 on 1/1/1976

Amended by Ord. 2001 Code on 1/1/2001

9-1-3: BUILDING PERMIT REQUIRED

- A. Application And Plans: A building permit shall be secured from the city on written application accompanied by plans and specifications in duplicate, which must state the specific nature of the construction or alterations to be made. The plan must be verified by the person who will perform or be in charge of the construction or alteration.
- B. Variations Of Plan Prohibited: No material variation from the approved plan shall be allowed unless such variations shall first have been approved in writing by the building inspector.
- C. Approval Of Plan: The application and plans shall be forwarded from the city to the building inspector, who shall review the plan to determine whether the proposed construction or alteration conforms to the building codes and ordinances of the city. The building inspector shall return the plans to the city within ten (10) days with the statement "approved" if the plans do conform or "disapproved" if the plans do not conform. If the plans are disapproved, the reasons therefor shall be annexed to the plans. Upon receipt of an approved plan, the city shall issue a permit to the applicant, together with one set of the approved plans. One set of the plans shall be retained by the city. The city may revoke at any time a permit which has been issued for any building constructed or being constructed or which would be or result, if constructed, in violation of any ordinance of the city.

Adopted by Ord. 1976 Code §§ 9-522, 9-523, 9-524 on 1/1/1976

Amended by Ord. 2001 Code on 1/1/2001

9-1-4: FEE SCHEDULE

The city shall collect a fee for the application of a permit in the amount provided for in the Uniform Building Code, 1997 edition.

*Adopted by Ord. 97-2 on 2/5/1979
Amended by Ord. 2001 Code on 1/1/2001*

9-1-5: PENALTY; EXCEPTION

- A. It shall be a Class C misdemeanor for any homeowner and a Class B misdemeanor for any person who receives payment or anything of value, to construct or alter any building or structure, except a fence, without first securing the permit required by this chapter. Upon conviction, violators will be subject to penalty as provided in section [1-4-1](#) of this code.
- B. This section shall not apply where the retail cost of the materials used in the construction or alteration is less than one thousand dollars (\$1,000.00), except that it shall apply in all cases where the construction or alteration results in an enlarged structure or affects the walls of the building or structure.

*Adopted by Ord. 1976 Code § 9-521 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

Chapter 2: ELECTRICAL CODE

9-2-1: ELECTRICAL CODE ADOPTED

9-2-2: ENFORCEMENT OFFICIAL

9-2-3: PERMIT REQUIRED

9-2-4: PERMIT FEES

9-2-5: ELECTRICAL INSTALLATIONS

9-2-6: INSPECTION

9-2-7: ELECTRICAL DISTURBANCES

9-2-1: ELECTRICAL CODE ADOPTED

The National Electrical Code, 1999 edition, and any amendments thereto, published by the National Electrical Contractors Association and approved by the National Board of Fire Underwriters, American Standards Association and the National Fire Protection Association and printed as a code in book form, three (3) copies of which have been previously filed with the city recorder for use and examination by the public, is hereby approved and adopted as the electrical code of the city.

*Adopted by Ord. 1976 Code § 9-540 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

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 electric light and power wiring, fixtures, appliances or apparatus installed within the limits of 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 he deems actually dangerous to life or property. Those same enforcement standards established in the Uniform Building Code shall be followed by the building inspector for all electrical work.

Adopted by Ord. 1976 Code § 9-541 on 1/1/1976

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 permit therefor, except minor repair work such as repairing flush and snap switches, replacing fuses, changing lamp sockets and receptacles, taping bare joints and repairing drop cords. Applications for such permit describing such work shall be made in writing and shall conform as far as practicable to the requirement set forth in subsection [9-1-3A](#) of this title. This section shall not apply to installations in powerhouses and substations belonging to electric light companies. No permit shall be issued to any applicant for a permit during the time that he shall fail to correct any defective electrical installations after he has been duly notified to correct such defective work by the building inspector.

Adopted by Ord. 1976 Code § 9-542 on 1/1/1976

9-2-4: PERMIT FEES

The electrical permit fees applicable in the city for use under the National Electrical Code, 1997 edition, shall be as established by resolution of the city council.

*Adopted by Ord. 1976 Code § 9-543 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

9-2-5: ELECTRICAL INSTALLATIONS

- A. Business License Required: No person shall engage in the installation, alteration, repair or construction of any electrical work, wiring, fixtures, appliances or equipment inside or outside of any building, except work done for or on the property of the city, without first securing a business license and paying the fee therefor as provided in section [9-2-4](#) of this chapter.
- B. 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.
- C. 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 the permit required by section [9-2-3](#) of this chapter.
- D. Unlawful Installation:
 - 1. Disconnection; Seal: If the building inspector shall find any part of any electric light or power wiring, appliances, apparatus or fixtures in or upon any building in the city to have been installed without permit, or installed not in accordance with the provisions of the electrical code or

to be dangerous to life or property, the inspector shall have the right and power to disconnect such defective work, fixtures, appliances or apparatus and place a seal upon the same, and shall at the same time give written notice of such disconnection to the owner or occupant of the building.

2. Removal Of Seal: After such disconnected wiring, fixtures, appliances or apparatus have been put in the condition required by this chapter, the seal so placed shall be removed by order of the inspector.

Adopted by Ord. 1976 Code §§ 9-551, 9-552, 9-553, 9-554 on 1/1/1976

9-2-6: INSPECTION

- A. Notification; Issuance Of Certificate: Upon completion of the installation of any electrical wiring, fixtures, appliances or apparatus in or on any building, 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 is approved.
- B. Unlawful To Connect Current Without Certificate: It shall be unlawful for any person to turn on or connect the current with such installation until such certificate shall be issued and it shall also be unlawful to make any change, alteration or extension in or to the installation of any electrical wiring, fixtures, appliances or apparatus in or on any building after inspection without notifying the building inspector and securing a permit to do so.
- C. Exception: The requirement of permits, inspection and supervision shall not apply to minor repair work such as repairing flush and snap switches, replacing fuses, changing lamp sockets and receptacles, taping bare joints and repairing drop cords, and wiring for appliances and devices operating at less than twenty five (25) volts.

Adopted by Ord. 1976 Code § 9-555 on 1/1/1976

Amended by Ord. 2001 Code on 1/1/2001

9-2-7: ELECTRICAL DISTURBANCES

- A. Declared Nuisance: Electrical installations for signs, equipment or other facilities which create electrical disturbances that cause interference with normal radio or television reception beyond the immediate vicinity of such electrical installations are hereby declared to be a nuisance. The owners or operators thereof shall so install and maintain such installations as to avoid or eliminate such interference, using all known means and devices for such purpose, such as proper grounding, connections, condensers, resistors and live chokes.
- B. Abatement: The building inspector shall withhold or withdraw approval of any electrical installation causing the above disturbance, and is hereby authorized to take all steps necessary for the abatement of such conditions.

Adopted by Ord. 1976 Code § 9-544 on 1/1/1976

Chapter 3: PLUMBING CODE

9-3-1: PLUMBING CODE ADOPTED

9-3-2: SCOPE

9-3-3: PLUMBING INSPECTOR

9-3-4: PERMITS

9-3-5: PERMIT 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

9-3-1: PLUMBING CODE ADOPTED

The International Plumbing Code, 1997 edition, and any amendments thereto, published by the International Code Council, Inc., the International Conference of Building Officials, the Building Officials and Code Administrators International, Inc., and the Southern Building Code Congress International, Inc., as a code in book form, three (3) copies of which have been filed for use and examination by the public in the office of the city recorder, is hereby approved and adopted as the plumbing code of the city, except as otherwise altered or modified by the ordinances of the city.

Adopted by Ord. 1976 Code § 9-561 on 1/1/1976

Amended by Ord. 2001 Code on 1/1/2001

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.

Adopted by Ord. 1976 Code § 9-562 on 1/1/1976

9-3-3: PLUMBING INSPECTOR

- A. Created: There is hereby created the position of plumbing inspector. The building inspector shall serve as the plumbing inspector.
- B. Duties: The plumbing inspector shall issue permits to properly licensed, bonded and registered persons. Permits shall be for work to be done within the scope of this chapter. The plumbing 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 Business Regulation for cause and report to the State Department of Business Regulation all violations of this chapter by journeymen, apprentices or contractors.

Adopted by Ord. 1976 Code § 9-563 on 1/1/1976

Amended by Ord. 2001 Code on 1/1/2001

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 he shall fail to correct any defective plumbing installed by him after he has been notified in writing by the plumbing 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 plumbing inspector with a complete layout drawing of the proposed work, satisfies the plumbing inspector that he has a working knowledge of the requirements contained in this chapter, pays the necessary fees and calls 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 plumbing inspector.
 - 2. Any person regularly employed by an owner or lessee of property, or his 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 plumbing 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 plumbing inspector shall expire and become null and void if the work authorized by such permit is not commenced within sixty (60) 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 one hundred twenty (120) days or more.
- F. Revocation: The plumbing 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.

Adopted by Ord. 1976 Code §§ 9-568, 9-569, 9-570, 9-571, 9-572, 9-573, 9-574 on 1/1/1976

9-3-5: PERMIT FEES

Before a permit shall be issued, permit fees in such amount as established by resolution of the city council shall be paid to the city treasurer.

*Adopted by Ord. 1976 Code § 9-574 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

9-3-6: REINSPECTION CHARGES

After notice that any plumbing work is ready for inspection, if the plumbing inspector calls at the place designated to make such inspection and finds the work not ready for inspection, he shall charge an additional fee in such amount as established by resolution of the city council for each additional inspection required, except that the city council may from time to time change the inspection fee required in this section by resolution.

*Adopted by Ord. 1976 Code § 9-574 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

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 plumbing inspector for special permission to deviate from the regulations. If, in the judgment of the plumbing inspector, such deviation is reasonable and does not create an unsanitary or unsafe condition, he shall recommend to the city council that the request for deviation be approved or disapproved, or that approval is subject to such conditions as the city council may require. The city council, on review, may approve or disapprove the application or vary the conditions on which approval is granted.

Adopted by Ord. 1976 Code § 9-564 on 1/1/1976

9-3-8: RIGHT OF ENTRY

The plumbing 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.

Adopted by Ord. 1976 Code § 9-565 on 1/1/1976

9-3-9: INTEREST IN SALE OF EQUIPMENT PROHIBITED

The plumbing inspector and his assistants shall not in any way engage in the sale or installation of plumbing equipment upon which they are required to make inspection hereunder.

Adopted by Ord. 1976 Code § 9-567 on 1/1/1976

9-3-10: POWER TO CONDEMN

- A. Granted; Penalty: The plumbing inspector is hereby empowered to condemn and order repaired, removed, replaced 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 section [1-4-1](#) of this code.
- 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 (10) days after written notice to do so from the plumbing 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.

*Adopted by Ord. 1976 Code §§ 9-566, 9-576 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

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 section [1-4-1](#) of this code.
- 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 section [1-4-1](#) of this code.

*Adopted by Ord. 1976 Code § 9-577 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001*

Chapter 4: MECHANICAL CODE

9-4-1: MECHANICAL CODE ADOPTED

9-4-1: MECHANICAL CODE ADOPTED

The International Mechanical Code, 1998 edition, and any amendments thereto, published by the International Conference of Building Officials and printed as a code in book form, three (3) copies of which have previously been filed with the city recorder for use and examination by the public, is hereby approved and adopted as the mechanical code of the city.

Adopted by Ord. 2001 Code on 1/1/2001

Chapter 5: FIRE CODE

9-5-1: FIRE CODE ADOPTED

9-5-1: FIRE CODE ADOPTED

There is hereby adopted as the fire code by the City, for the purpose of prescribing regulations governing conditions hazardous to life and protecting property from fire or explosion, that certain code known as the Uniform Fire Code, recommended by the Western Fire Chiefs Association and the International Conference of Building Officials, adopting the latest edition and any subsequent editions, and any amendments thereto, of which not less than three (3) copies shall be and are now filed in the office of the city recorder for use and inspection by the public.

*Adopted by Ord. 1976 Code § 10-151 on 1/1/1976
Amended by Ord. 2001 Code on 1/1/2001
Amended by Ord. [2011-03](#) on 10/10/2011*

Title 10 - LAND USE AND DEVELOPMENT REGULATIONS

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Chapter 1: PURPOSE AND APPLICABILITY

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10-1-1: SHORT TITLE

This title shall be known as the LAND USE ORDINANCE OF HONEYVILLE CITY and may be so cited and pleaded.

Adopted by Ord. 2007-02 on 7/11/2007

10-1-2: AUTHORITY

This title is adopted pursuant to the Utah land use development and management act, section 10-9a-101 of the Utah code, and the police power authority of local government as established by Utah common law.

Adopted by Ord. 2007-02 on 7/11/2007

10-1-3: PURPOSE

The purposes of this title are to provide for the health, safety, and welfare, and promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of the city and its present and future inhabitants and businesses, to protect the tax base, to secure economy in governmental expenditures, foster the city's agricultural and other industries, to protect both urban and nonurban development, to protect and ensure access to sunlight for solar energy devices, to provide fundamental fairness in land use regulation, and to protect property values.

Adopted by Ord. 2007-02 on 7/11/2007

10-1-4: SCOPE

Except as otherwise provided in section [10-1-5](#) of this chapter, this title shall apply to all property within the corporate limits of the city except property expressly exempted therefrom by the provisions of this title or other lawful exemption.

Adopted by Ord. 2007-02 on 7/11/2007

10-1-5: APPLICABLE PROVISIONS NOT IN THIS TITLE

Code provisions not found in this title applicable to the use and development of land include, but are not limited to, the following:

- A. [Title 8](#), "Water Regulations", of this code;
- B. [Title 9](#), "Building Regulations", of this code.

Adopted by Ord. 2007-02 on 7/11/2007

10-1-6: APPLICABILITY TO OTHER ENTITIES, SCHOOL DISTRICTS, AND CHARTER SCHOOLS

- A. Applicability To Other Entities: Except as otherwise set forth in this section, Box Elder County and any municipality, school district, charter school, local district, special service district, or political subdivision of the state shall conform to any applicable provision of this title when installing, constructing, operating, or otherwise using any area, land, or building situated within the city.
- B. School Districts And Charter Schools:

1. Except as provided in subsection B2 of this section, a school district or charter school is subject to the provisions of this title.
 - a. Notwithstanding subsection B2 of this section, the city may:
 - (1) Subject a charter school to standards within each zone pertaining to setback, height, bulk, and massing regulations, off site parking, curb cut, traffic circulation, and construction staging; and
 - (2) Impose regulations upon the location of a project necessary to avoid unreasonable risks to health or safety, as provided in subsection B2f of this section.
 - b. The standards to which the city may subject a charter school under subsection B1a of this section shall be objective standards only and may not be subjective.
 - c. Except as provided in subsection B6d of this section, the only basis upon which the city may deny or withhold approval of a charter school's land use application is the charter school's failure to comply with a standard imposed under subsection B1a of this section.
 - d. Nothing in subsection B1c of this section may be construed to relieve a charter school of an obligation to comply with a requirement of an applicable building or safety code to which it is otherwise obligated to comply.
2. The city may not:
 - a. Impose requirements for landscaping, fencing, aesthetic considerations, construction methods or materials, additional building inspections, municipal building codes, building use for educational purposes, or the placement or use of temporary classroom facilities on school property;
 - b. Except as otherwise provided in this section, require a school district or charter school to participate in the cost of any roadway or sidewalk, or a study on the impact of a school on a roadway or sidewalk, that is not reasonably necessary for the safety of schoolchildren and not located on or contiguous to school property, unless the roadway or sidewalk is required to connect an otherwise isolated school site to an existing roadway;
 - c. Require a school district or charter school to pay fees not authorized by this section;
 - d. Provide for inspection of school construction or assess a fee or other charges for inspection, unless the school district or charter school is unable to provide for inspection by an inspector, other than the project architect or contractor, who is qualified under criteria established by the state superintendent;
 - e. Require a school district or charter school to pay any impact fee for an improvement project unless the impact fee is imposed as provided in the impact fees act, title 11, chapter 36 of the Utah code; or
 - f. Impose regulations upon the location of a project except as necessary to avoid unreasonable risks to health or safety.
3. Subject to section 53A-20-108 of the Utah code, a school district or charter school shall coordinate the siting of a new school with the city to:
 - a. Avoid or mitigate existing and potential traffic hazards, including consideration of the impacts between the new school and future highways; and
 - b. Maximize school, student, and site safety.
4. Notwithstanding subsection B2d of this section, the city may, at its discretion:
 - a. Provide a walk-through of school construction at no cost and at a time convenient to the school district or charter school; and
 - b. Provide recommendations based upon the walk-through.
5.
 - a. Notwithstanding subsection B2d of this section, a school district or charter school shall use:
 - (1) A city building inspector;
 - (2)
 - (A) For a school district, a school district building inspector from that school district; or
 - (B) For a charter school, a school district building inspector from the school district in which the charter school is located; or
 - (3) An independent, certified building inspector who is:
 - (A) Not an employee of the contractor;
 - (B) Approved by:
 - (a) A city building inspector; or
 - (b)
 - (a) For a school district, a school district building inspector from that school district; or
 - (b) For a charter school, a school district building inspector from the school district in which the charter school is located; and
 - (C) Licensed to perform the inspection that the inspector is requested to perform.
 - b. The approval under subsection B5a(3)(B) of this section may not be unreasonably withheld.
 - c. If a school district or charter school uses a school district or independent building inspector under subsection B5a(2) or B5a(3) of this section, the school district or charter school shall submit to the state superintendent of public instruction and city building official, on a

monthly basis during construction of the school building, a copy of each inspection certificate regarding the school building.

6.

- a. A charter school shall be considered a permitted use in all zoning districts within the city.
- b. Each land use application for any approval required for a charter school, including an application for a building permit, shall be processed on a first priority basis.
- c. Parking requirements for a charter school may not exceed the minimum parking requirements for schools or other institutional public uses throughout the city.
- d. If the city has designated zones for a sexually oriented business, or a business which sells alcohol, a charter school may be prohibited from a location which would otherwise defeat the purpose for the zone unless the charter school provides a waiver.
- e.

(1) A school district or a charter school may seek a certificate authorizing permanent occupancy of a school building from:

- (A) The state superintendent of public instruction, as provided in subsection 53A-20-104(3) of the Utah code, if the school district or charter school used an independent building inspector for inspection of the school building; or
- (B) A city official with authority to issue the certificate, if the school district or charter school used a city building inspector for inspection of the school building.

(2) A school district may issue its own certificate authorizing permanent occupancy of a school building if it used its own building inspector for inspection of the school building, subject to the notification requirement of subsection 53A-20-104(3)(a)(ii) of the Utah code.

(3) A charter school may seek a certificate authorizing permanent occupancy of a school building from a school district official with authority to issue the certificate, if the charter school used a school district building inspector for inspection of the school building.

(4) A certificate authorizing permanent occupancy issued by the state superintendent of public instruction under subsection 53A-20-104(3) of the Utah code or a school district official with authority to issue the certificate shall be considered to satisfy any city requirement for an inspection or a certificate of occupancy.

Adopted by Ord. 2007-02 on 7/11/2007

10-1-7: ANNEXED TERRITORY; ZONE CLASSIFICATION

Land annexed to the city shall be zoned A agricultural unless the city council assigns a different zone to such land at the time of annexation.

Adopted by Ord. 2007-02 on 7/11/2007

10-1-8: LICENSES AND PERMITS TO CONFORM

Each department, official, and employee of the city vested with the duty or authority to issue permits or licenses shall conform to the provisions of this title and shall issue no permit or license for a use, building, or purpose where the same would conflict with the provisions of this title. It shall be a violation of this title for any person to perform, or order the performance of, any act which is contrary to the provisions of this title or to fail to perform any act which is required by the provisions of this title. Any permit or license issued in violation of this title shall be null and void.

- A. Permits Required: No building or structure shall be constructed, reconstructed, altered, or moved, nor shall the use or status of land be changed except after the issuance of valid permits which conform to the requirements of this title, unless no permit is required by this title or by the construction codes adopted by the city.
- B. Utility Service: No electrical, sewer, telephone, water, or other utility line shall be installed to serve any premises if such installation is or will be in violation of this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-1-9: CONSTRUCTION AND USE TO CONFORM TO PLANS

Building and other permits and certificates of occupancy issued by the city authorize only the use, arrangement, and construction set forth in the approved plans and applications, and no other use, arrangement or construction. Use, arrangements, or construction at variance with that shown on approved plans and specifications shall be deemed a violation of this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-1-10: CERTIFICATE OF OCCUPANCY

- A. Certificate Of Occupancy Required: No land shall be used or occupied and no building hereafter structurally altered or erected shall be used, until a certificate of occupancy has been issued stating that the building or the proposed use thereof, or the use of the land, complies with the provisions of this title. A certificate of occupancy either for the whole or part of a building or structure shall be applied for coincidentally with the application for a building permit, and shall be issued after the erection or structural alteration of such building or structure, or part thereof, has been completed in conformity with the provisions of this title and the building code.
- B. Unlawful To Use Or Occupy: It is unlawful to use or occupy, or to permit the use or occupancy, of any building or structure unless a certificate of occupancy has been issued for such building or premises. It is unlawful to use or occupy, or to allow to be used or occupied, any building or structure with a use or occupancy that is different than specifically provided for in a certificate of occupancy.
- C. Failure To Obtain Certificate Of Occupancy: Failure to obtain a certificate of occupancy shall be a violation of this title.
- D. Nuisance: The use or occupancy of any building for which a certificate of occupancy has not been issued is hereby declared to be a public nuisance and may be abated as such. It shall also be a public nuisance for any building or structure to be used or occupied in a manner different than authorized by a certificate of occupancy.

Adopted by Ord. 2007-02 on 7/11/2007

10-1-11: CONFLICTING PROVISIONS

This title shall not nullify the more restrictive provisions of covenants, agreements, other ordinances or laws, but shall prevail notwithstanding such provisions which are less restrictive. In cases where provisions within this title conflict, the most restrictive provision shall apply over the less restrictive one unless the less restrictive provision specifically provides otherwise.

10-1-12: REPEAL OF PRIOR ORDINANCE

Titles 10 and 11 of this code, as amended and as existed prior to the ordinance codified herein, are hereby superseded and amended as set forth in this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-1-13: PREVIOUS ORDINANCES CONTINUED

This title shall be deemed a continuation of titles 10 and 11 of this code as existed prior to the ordinance codified herein and not a new enactment insofar as the substance of revisions included herein, whether in the same or different language. This title shall be so interpreted upon any question concerning the tenure of an officer or board established by prior title 10 or 11 of this code, or upon any question concerning the legal conformity of any lot, structure, use, or other nonconformity except as may be otherwise provided in [chapter 6](#), "Nonconformities", of this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-1-14: TRANSITION RULES

Nothing in this title shall require a change in any plans, construction, or designated use of any building or structure if a complete application for the same was submitted prior to the effective date of this title, unless such application, or a permit issued thereunder, expires. If an application or permit expires, any new permit shall conform to the requirements of this title.

Adopted by Ord. 2007-02 on 7/11/2007

Chapter 2: PLANNING DOCUMENTS

10-2-1: PURPOSE

10-2-2: GENERAL PLAN

10-2-3: OFFICIAL MAP

10-2-4: CAPITAL FACILITIES PLAN

10-2-1: PURPOSE

The purpose of this chapter is to identify planning documents which provide the policy foundation for this title and to set forth the basis for preparing, adopting, and amending such plans.

Adopted by Ord. 2007-02 on 7/11/2007

10-2-2: GENERAL PLAN

- A. Purpose: In order to accomplish the purposes set forth in [chapter 1](#) of this title, and as required under section 10-9a-401 of the Utah code, the city has prepared and adopted a comprehensive, long range general plan for present and future needs of the city, and growth and development of the land within the city.
- B. Content: The general plan shall show the city's recommendations for development of the territory covered by the plan, and may consist of text, maps, charts, and descriptive and explanatory matter. Except as otherwise set forth in this section, the city council shall determine the comprehensiveness, extent, and format of the general plan.
 1. The general plan shall include:
 - a. A land use element that:
 - (1) Designates the long term goals and the proposed extent, general distribution, and location of land for housing, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and
 - (2) May include a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan.
 - b. A transportation and traffic circulation element consisting of the general location and extent of existing and proposed freeways, arterial and collector streets, mass transit, and any other modes of transportation, all correlated with the population projections and the proposed land use element.
 2. The general plan may include:
 - a. An environmental element that addresses:
 - (1) The protection, conservation, development, and use of natural resources, including the quality of air, forests, soils, rivers and other waters, wildlife, minerals, and other natural resources; and
 - (2) The reclamation of land, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas, the prevention, control, and correction of the erosion of soils, protection of watersheds and wetlands, and the mapping of known geologic hazards.
 - b. A public services and facilities element showing general plans for sewage, waste disposal, drainage, local utilities, rights of way, easements, and facilities for them, police and fire protection, and other public services.
 - c. A rehabilitation, redevelopment, and conservation element consisting of plans and programs for:
 - (1) Historic preservation;
 - (2) Diminution or elimination of blight; and
 - (3) Redevelopment of land, including housing sites, business and industrial sites, and public building sites.
 - d. An economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected municipal revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity.
 - e. Recommendations for implementing all or any portion of the general plan, including land use ordinances, capital improvement plans, community development and promotion, and any other appropriate action.
 - f. Provisions addressing any of the matters listed in subsection 10-9a-401(2) of the Utah code.

g. Any other element the city considers appropriate.

C. Amendment Of Plan: The general plan may be amended by following the procedures set forth in this section.

1. Persons wishing to propose a general plan amendment shall file their proposals and shall pay any fee established by the city's adopted fee schedule. Notwithstanding the foregoing, the city council may at any time, by majority vote, authorize preparation of proposed general plan amendments.
2. A person who proposes a general plan amendment shall do the survey and analysis work necessary to justify the proposed amendment. To ensure sufficient information is provided to evaluate each proposal, an applicant shall submit the following information:

a. For map amendments:

- (1) Eight and one-half inch by eleven inch (8¹/₂" x 11") map showing the area of the proposed amendment;
- (2) Current copy of county assessor's parcel map showing the area of the proposed amendment;
- (3) Mapped inventory of existing land uses within the area of the proposed amendment and extending one-half (1/2) mile beyond such area;
- (4) Correct property addresses of parcels included within the area of the proposed amendment;
- (5) Written statement specifying the potential use of property within the area of the proposed amendment;
- (6) Written statement explaining why the existing general plan designation for the area is no longer appropriate or feasible;
- (7) Analysis of the potential impacts of the proposed amendment on existing infrastructure and public services such as traffic, streets, intersections, water and sewer, storm drains, electrical power, fire protection, garbage collection, etc.; and
- (8) As part of the general plan map amendment process, the applicant shall attempt to collect the signature of the property owner or authorized agent or, in the case of amendments affecting multiple properties, the signatures of a majority of the persons who own property within the area proposed for the general plan map amendment.

b. For text amendments:

- (1) Written statement showing the desired language change;
- (2) Written statement explaining why the existing general plan should be amended;
- (3) Analysis of the potential impacts of the proposed amendment; and
- (4) Map showing affected areas if proposed text changes will affect specific geographic areas.

3. After completing its recommendation regarding a proposed general plan amendment, the planning commission shall schedule and hold a public hearing on the proposed amendment as provided in subsection 10-5-4C of this title at least ten (10) days before the public hearing. After the public hearing, the planning commission may modify the proposed amendment and shall then forward the proposed amendment to the city council for consideration.

D. Council Action: The city council may make any revisions to the proposed general plan amendment that it considers appropriate and may thereafter adopt or reject the proposed amendment. If the city council rejects the proposed general plan amendment, it may provide suggestions to the planning commission for consideration.

E. Effect Of Plan On Public Uses: After adoption of the general plan, no street, park, or other public way, ground, place, or space, no publicly owned building or structure, and no public utility, whether publicly or privately owned, may be constructed or authorized until and unless it conforms to the current general plan.

F. Legal Status Of Plan: The general plan is only an advisory guide for growth and development of the land within the city.

Adopted by Ord. 2007-02 on 7/11/2007

10-2-3: OFFICIAL MAP

A. Authorized: The city council may adopt an official map. An official map does not:

1. Require a landowner to dedicate and construct a street as a condition of development approval, except under circumstances provided in subsection B3 of this section; or
2. Require a municipality to immediately acquire property it has designated for eventual use as a public street.

B. Property Acquisition: This section does not prohibit the city from:

1. Acquiring property through purchase, gift, voluntary dedication, or eminent domain.
2. Requiring dedication and improvement of a street if the street is found necessary by the city because of a proposed development and if:
 - a. An essential link exists between a legitimate governmental interest and each exaction; and
 - b. Each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.
3. Recommending that an applicant consider and accommodate the location of proposed streets in the planning of a development proposal in a manner that is consistent with subsection B2 of this section.

Adopted by Ord. 2007-02 on 7/11/2007

10-2-4: CAPITAL FACILITIES PLAN

A. Capital Facilities Availability: In the event capital facilities are unavailable to serve a proposed development project subject to the requirements of this title, the capital facilities plan adopted pursuant to chapter 32 of this title shall be used as a guide to determine when needed capital facilities may be available.

B. Capital Facilities Plan Preparation: A capital facilities plan shall be prepared as provided in section 11-36-201 of the Utah code.

Adopted by Ord. 2007-02 on 7/11/2007

Chapter 3: DEFINITIONS

10-3-1: PURPOSE

10-3-2: SCOPE

10-3-3: INTERPRETATION RULES

10-3-4: DEFINITIONS OF WORDS AND PHRASES

10-3-5: ILLUSTRATIONS

10-3-1: PURPOSE

The purpose of this chapter is to provide rules of construction, definitions, and illustrations so that the provisions of this title may be readily understood and consistently administered.

Adopted by Ord. 2007-02 on 7/11/2007

10-3-2: SCOPE

The rules of construction, definitions, and illustrations contained in this chapter shall apply to the entirety of this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-3-3: INTERPRETATION RULES

- A. General: All provisions, terms, phrases and expressions contained in this chapter shall be liberally construed to accomplish the purposes of this title.
- B. Computation Of Time: The time within which an act is to be done shall be computed by excluding the first day and including the last day. If the last day is a Saturday, Sunday, or holiday, then the last day shall be the next following business day. In computing the time required for public hearing notice, the day of the hearing shall be excluded.
- C. Conjunctions: Unless the context clearly indicates to the contrary, conjunctions shall be interpreted as follows:
 - 1. "And" indicates that all connected items, conditions, provisions or events shall apply.
 - 2. "Or" indicates that one or more of the connected items, conditions, provisions or events shall apply.
 - 3. "Either . . . or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
- D. Mandatory And Discretionary Terms: The word "shall" is always mandatory. The word "should" means the matter described ought to be accomplished if reasonable and possible under the circumstances. The word "may" is permissive.
- E. Nontechnical And Technical Words: Words and phrases shall be construed according to the common use and understanding of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.
- F. Tense, Number, And Gender: Words used in the past or present tense include the future as well as the past or present unless the context clearly indicates the contrary. The singular shall include the plural and the plural shall include the singular as the context and application of this title may reasonably suggest. Words of one gender shall apply to any person, natural or fictitious, regardless of gender, as the context and application of this title may reasonably suggest.
- G. Fractional Numbers: In determining compliance with the numerical requirements of this title, any computation or measurement resulting in a fractional number shall be rounded to the nearest whole number.
- H. Public Officials, Bodies And Agencies: All public officials, bodies, and agencies to which reference is made are those of the city of Honeyville, Utah, unless otherwise indicated.
- I. Delegation Of Authority: Whenever a provision appears requiring the mayor, head of a department, or some other officer or employee to do some act or perform some duty, it shall be construed to authorize the mayor, head of the department, or other officer to designate, delegate, and authorize subordinates to perform the required act or duty unless the terms of the provision or section specify otherwise.

Adopted by Ord. 2007-02 on 7/11/2007

10-3-4: DEFINITIONS OF WORDS AND PHRASES

As used in this title, the words and phrases defined in this section shall have the following meanings unless the context clearly indicates a contrary meaning. Words not included herein but defined in the building code shall be construed as defined therein.

ACCESSORY BUILDING: A detached subordinate building located on the same lot with a main building, the use of which is customarily incidental to that permitted in the main building, or to the land upon which the main building is located.

ACCESSORY USE: See definition of Use, Accessory.

ADJACENT LANDOWNER: A property owner of record, according to the records of the county recorder, whose property abuts all or part of property proposed for development.

ADULT DAYCARE FACILITY: Any building or structure furnishing care, supervision, and guidance for three (3) or more adults unaccompanied by guardians for periods of less than twenty four (24) hours per day.

AFFECTED ENTITY: A county; a municipality; a local district; a special service district under the Utah special service district act; a school district; an interlocal cooperation entity established under the interlocal cooperation act; an electrical, gas, or telephone utility as defined in section 54-2-1 of the Utah code; a property owner; a property owners' association; or the Utah department of transportation, if:

- A. The entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;
- B. The entity has filed with the city a copy of the entity's general or long range plan; or
- C. The entity has filed with the city a request for notice during the same calendar year and before the city provides required notice to an affected entity.

AGRICULTURAL BUSINESS: The conduct of agricultural activity involving the keeping, grazing and pasturing of domestic animals for commercial gain. Typical uses include the raising of animals for food or for the production of food in excess of that required for a household and the boarding or stabling of animals other than those owned and used by household members.

AGRICULTURAL INDUSTRY: An industry or business involving agricultural products in packaging, treatment, sales, intensive feeding, or storage. Typical uses include commercial feed yards, fur farms, commercial milk production, food packaging or processing plants, and commercial poultry or egg production.

AGRICULTURAL PROCESSING: Initial processing of agricultural products that is reasonably required to take place in close proximity to the site where they are produced. Typical uses include sawmills and packinghouses. Slaughterhouses are specifically excluded from this definition.

AGRICULTURAL SALES AND SERVICE: An establishment primarily engaged in the sale or rental of farm tools and implements, feed and grain, tack, animal care products, anhydrous ammonia, farm supplies and the like, and including accessory food sales and machinery repair services. This definition shall also include greenhouses which are used for wholesale and/or retail purposes.

AGRICULTURE: The tilling of soil, raising of crops, produce, horticulture and gardening, keeping or grazing of domestic animals and noncommercial feed yards, but not including any agricultural business or industry.

ALLEY: A public thoroughfare less than twenty six feet (26') wide for the use of pedestrians and vehicles providing a secondary means of access to the rear of abutting properties.

ANIMAL, EXOTIC: Any species of animal which is:

- A. Not indigenous to the continental United States except tropical fish, furbearing animals commercially bred for the furrier trade, and birds, or
- B. Venomous to human beings, whether its venom is transmitted by bite, sting, touch or other means, except honey producing bees, or
- C. Not confined or cultivated for farm or commercial purposes.

ANIMAL HOSPITAL: A building where small animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. "Animal hospital" does not include use of the premises as a kennel or a place where animals or pets are boarded for remuneration except when incidental to a principal use.

ANIMAL OR FOWL UNIT: A method of accounting for the relative impact of adult domestic animals and fowl. "Adult" means animals and fowl of breeding age.

- A. Each of the following shall constitute one animal unit, but not including any animal defined as a "household pet":
 - 1. One large domestic animal (horse, mule, cow, or other similar size animal).
 - 2. Three (3) medium domestic farm animals (pig, sheep, goat, or similar size animal).
 - 3. Five (5) small domestic animals (rabbit or similar size animal).
- B. Each of the following shall constitute one fowl unit, but not including any fowl defined as a "household pet":
 - 1. Five (5) large fowl (duck, goose, or turkey or similar size fowl).
 - 2. Twenty five (25) medium fowl (chickens, pheasants, or pigeons or similar size fowl).

ANIMAL SPECIALTIES: The production of small animals and associated products. Typical uses include chicken, turkey, and rabbit raising, egg production, apiaries, and aviaries.

ANIMALS AND FOWL FOR RECREATION AND FAMILY FOOD PRODUCTION: The keeping of animals on a lot for enjoyment and exclusive use by persons residing thereon.

ANTENNA: Any exterior apparatus designed for telephonic, radio or television communications through the sending and/or receiving of electromagnetic waves, including equipment attached to a tower or building for the purpose of providing personal wireless services.

ANTENNA HEIGHT: The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad and other appurtenances and shall be measured from the finished grade of the parcel. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

ANTENNA SUPPORT STRUCTURE: Any pole, telescoping mast, tower, tripod or other structure which supports an antenna.

APARTMENT HOUSE: See definition of Dwelling, Multiple-Family.

APPEAL AUTHORITY: The person, board, commission, agency, or other body which decides an appeal of a decision of a land use application or authorizes a variance as provided in this title.

ASSISTED LIVING FACILITY: A residential facility, licensed by the state of Utah with a homelike setting that provides an array of coordinated supportive personal and healthcare services, available twenty four (24) hours per day, to residents who have been assessed under Utah department of health or the Utah department of human services rules to need any of these services and who have a service plan based on the assessment, which may include: a) specified services of intermittent nursing care; b) administration of medication; and c) support services promoting residents' independence and self-sufficiency. An assisted living facility does not include adult daycare provided in conjunction with a residential facility for elderly persons or a residential facility for persons with a disability.

ATTORNEY, CITY: The person selected or appointed by the city council to represent Honeyville City as the city's attorney.

AUDITORIUM OR STADIUM: An open, partially enclosed or fully enclosed facility used or intended to be used primarily for spectator sports, entertainment events, expositions and other public gatherings. Typical uses include convention and exhibition halls, sports arenas and amphitheaters.

AUTOMOBILE WRECKING YARD: Any lot, land or area used for the storage, keeping, dismantling or salvaging of two (2) or more unlicensed automobiles or parts thereof.

BAIL BOND SERVICE: An establishment which provides sureties to procure the release of persons under arrest by becoming financially responsible for their appearance at the time and place designated.

BANK OR FINANCIAL INSTITUTION: An organization involved in deposit banking, finance, investment, mortgages, trusts, and the like. Typical uses include commercial banks, credit unions, finance companies, and savings institutions.

BASEMENT: That portion of a building that is partly or completely below grade. A basement shall not be considered as a story above grade plane where the finished surface of the floor above the basement is:

- A. More than six feet (6') above grade plane;
- B. More than six feet (6') above the finished ground level for more than fifty percent (50%) of the total building perimeter; or
- C. More than twelve feet (12') above the finished ground level at any point.

BED AND BREAKFAST: A commercial activity within a residential structure where rooms may be rented to paying guests on a nightly basis and breakfast is provided.

BENCH MARK: The mark affixed to a permanent or semipermanent object along a line of survey to furnish a datum level.

BERM: A mound of earth, generally two (2) to six feet (6') high, used to shield, screen, and buffer undesirable views and to separate land uses.

BILLBOARD: A freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

BLOCK: Land surrounded by streets and other rights of way other than an alley, or land which is designated as a block on any recorded subdivision plat.

BOARDING HOUSE: A building with not more than five (5) guestrooms, where, for compensation, meals are provided for not more than fifteen (15) persons.

BUILDABLE AREA: The area of a lot within front, rear and side yard setback lines where a main building may be constructed.

BUILDING: A permanently located structure having a roof supported by columns or walls for the shelter, housing, or enclosure of any person, animal, article, or chattel.

BUILDING AREA: The area included within the surrounding exterior walls (or exterior walls and firewalls) exclusive of vent shafts and courts. Areas of a building not provided with surrounding walls shall be included in the building area if such areas are included within the horizontal projection of the roof or floor above.

BUILDING FACADE: Any exterior wall of a building including windows, doors, and mansard, but not including a pitched roof.

BUILDING LINE, FRONT: A line parallel to the front lot line and at a distance therefrom equal to the required depth of the front yard and extending across the entire width of the lot.

BUILDING LINE, REAR: A line parallel to the rear lot line and at a distance therefrom equal to the required depth of the rear yard and extending across the entire width of the lot.

BUILDING LINE, SIDE: A line parallel to the side lot line and at a distance therefrom equal to the required depth of the side yard and extending between the front and rear building lines.

BUILDING, MAIN: The principal building or one of the principal buildings located on a lot designed or used to accommodate the primary use to which the premises are devoted. Where a permissible use involves more than one structure designed or used for the primary purpose, as in the case of apartment groups, each such permitted building on one "lot" as defined by this section shall be deemed a main building.

BUILDING OFFICIAL: The person designated by the city council as the building official or building inspector.

BUILDING OR STRUCTURE HEIGHT: The vertical distance from the grade plane to the average height of the highest roof surface.

BUILDING, PUBLIC: A building owned and operated or owned and intended to be operated by a public agency of the United States of America, of the state of Utah or any of its subdivisions.

BUSINESS EQUIPMENT RENTAL AND SUPPLIES: An establishment primarily engaged in the display, storage, and sale of goods or services used by office, professional and service establishments. Includes the sale, rental or repair of equipment and supplies used by office, professional, and service establishments, but excludes automotive, construction and farm equipment. Typical uses include office equipment and supply firms, small business machine repair shops and hotel equipment and supply firms.

CAPITAL FACILITIES: Any or all of the following facilities that have a life expectancy of ten (10) or more years: water rights and water supply, treatment, and distribution facilities; wastewater collection and treatment facilities; stormwater, drainage, and flood control facilities; roadway facilities; parks and recreation facilities, open space and trails; and public safety facilities.

CAPITAL FACILITIES PLAN: That plan required by section 11-36-201 of the Utah code for public facilities, including, but not limited to, water, stormwater, parks, open space, and transportation, as the same may be amended from time to time.

CAR WASH: An establishment primarily engaged in cleaning or detailing motor vehicles, whether self-service, automatic or by hand.

CARPORT: A covered automobile parking space with at least two (2) sides open. For the purposes of this title a carport shall be subject to all of the regulations prescribed for a private garage.

CEMETERY: Land used or intended to be used for the burial of the dead, whether human or animal, including crematoriums and mausoleums.

CHARTER SCHOOL: Any of the following:

- A. An operating charter school.
- B. A charter school applicant that has its application approved by a chartering entity in accordance with the Utah charter schools act.
- C. An entity working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

CHURCH OR PLACE OF WORSHIP: Any structure or site such as a church, synagogue, chapel, sanctuary or cathedral, used primarily for collective or individual involvement with a religious activity, such as rites, rituals, ceremonies, prayers and discussions, and for church related activities.

CITY: The city of Honeyville, Utah, a municipal corporation.

CITY COUNCIL: The Honeyville, Utah, city council.

CITY ENGINEER: A registered civil engineer so appointed or employed by the city.

CLEAR VIEW AREA: Areas at intersecting streets and driveways where unobstructed vision is maintained as required by this title.

CLINIC: See definition of Medical Service.

CLUB OR SERVICE ORGANIZATION: An establishment or organization providing meeting, recreational or social facilities for a private or nonprofit association, except a private club as defined herein. Typical uses include lodges, meeting halls, recreation centers, and areas operated by social clubs, fraternal and service organizations.

CLUB, PRIVATE: Any nonprofit corporation operating as a social club, recreational, fraternal, or athletic association, or kindred association which allows the consumption of liquor on its premises pursuant to a license granted by the Utah alcoholic beverage control commission.

COLLEGE OR UNIVERSITY: An institution of higher education offering undergraduate or graduate degrees and including, but not limited to, such accessory uses as dormitories, museums, stadiums, and theaters.

CONCEPT PLAN: A scale drawing that shows proposed development and supporting infrastructure on a generalized basis.

CONDITIONAL USE: See definition of Use, Conditional.

CONDOMINIUM: The ownership of a single unit in a multi-unit project together with an undivided interest in common in the common areas and facilities of the property created pursuant to the Utah condominium ownership act.

CONDOMINIUM DECLARATION: See definition of Declaration.

CONDOMINIUM PROJECT: A real estate plan, project, or property where two (2) or more units, whether contained in existing or proposed apartments, commercial, or industrial buildings or structures or otherwise, are separately offered or proposed to be offered for sale pursuant to the Utah condominium ownership act.

CONSTITUTIONAL TAKING: A city action that results in a taking of private property so that compensation to the owner of the property is required by the:

- A. Fifth or fourteenth amendment of the constitution of the United States; or
- B. Utah constitution article I, section 22.

CONSTRUCTION: The materials, architecture, assembly, and installation of a building or structure.

CONSTRUCTION SALES AND SERVICE: An establishment engaged in the retail or wholesale sale of materials and services used in the construction of buildings or other structures, as well as the outdoor storage of construction equipment or materials on lots other than construction sites. Typical uses include lumberyards, home improvement centers, lawn and garden supply stores, construction equipment sales and rental, electrical, plumbing, air conditioning and heating supply stores, swimming pool sales, construction and trade contractors' offices and storage yards, and public utility corporation storage yards.

CONSTRUCTION STANDARDS: The standards and specifications adopted by the city, which establish minimum standards for the design and construction of infrastructure improvements.

CONVALESCENT CARE FACILITY: An establishment providing bed care and inpatient services for persons needing regular medical attention but excluding a facility providing surgical or emergency medical services or providing care for mental illness or communicable disease. Typical uses include nursing homes and rest homes.

CONVENIENCE STORE: An establishment, not exceeding five thousand (5,000) square feet of gross floor area, serving a limited market area and engaged in the retail sale or rental, from the premises, of food, beverages and other frequently or recurrently needed items for household use, excluding gasoline sales.

CONVERTIBLE LAND: A building site which is a portion of the common areas and facilities described by metes and bounds, within which additional units or limited common areas and facilities may be created pursuant to the Utah condominium ownership act.

CORRECTIONAL FACILITY: A facility providing housing and care for individuals legally confined for violations of law.

CULINARY WATER AUTHORITY: The Honeyville City water department.

CULINARY WATER FACILITIES: Water, water supply, pipelines, pumps, springs, wells and/or any other physical facilities necessary to provide a sufficient quantity of approved quality water to each lot.

CULTURAL SERVICE: A library, museum or similar public or registered nonprofit organizational use displaying, preserving, and exhibiting objects of community and cultural interest in one or more of the arts and sciences.

DECIBEL (dB): A unit of measure used to express intensity of noise.

DECLARATION: The legal instrument by which property is subjected to the provisions of the Utah condominium ownership act.

DEDICATION: The setting aside of land by an owner for any general and/or public uses, reserving for himself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property is devoted.

DENSITY: The number of dwelling units per acre within a subdivision or other development based on the total tract area whether developable or not, including streets, water areas, and open space conservation areas.

DEVELOPER: The person, association or corporation developing or causing to be developed the property subject to the provisions of this title.

DEVELOPMENT APPROVAL: Any written authorization from the city that authorizes the commencement of development activity.

DEVELOPMENT OR DEVELOPMENT ACTIVITY: Any of the following:

- A. 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.

- B. Any construction, reconstruction, or expansion of a building, structure, or use.
- C. Any change in the use of a building or structure.
- D. The total area of a lot on which a building permit is to be issued or the total area of property being improved.
- E. Any change in the use of land that creates additional demand and need for capital facilities.
- F. The property being developed and/or subdivided.
- G. The act, process or result of developing.

DISABILITY: A physical or mental impairment which substantially limits one or more of a person's major life activities, including a person having a record of such an impairment, or being regarded as having such an impairment. "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in section 102 of the controlled substances act, 21 USC 802, or successor law.

DUPLEX: See definition of Dwelling, Two-Family.

DWELLING: Any building, or portion thereof, having one or more dwelling units occupied as, or designed or intended for occupancy as, a residence by one or more families as permitted by this title, but not including hotels, motels, boarding houses, or other facilities offering transient lodging facilities.

DWELLING, MULTIPLE-FAMILY: A dwelling having three (3) or more dwelling units.

DWELLING, SINGLE-FAMILY: A building arranged or designed to be occupied by one family and having only one dwelling unit.

DWELLING, SINGLE-FAMILY WITH ACCESSORY APARTMENT: A building having only one dwelling unit and one accessory apartment.

DWELLING, TEMPORARY: A trailer or structure used for temporary residential purposes solely by a property owner or builder during the construction of a permanent dwelling on a lot.

DWELLING, TOWNHOUSE: A dwelling unit in a row of at least three (3) such units where each unit has its own front and rear exterior access, no unit is located above or below another unit, and each unit is separated from any other unit by one or more vertical common fire resistant walls.

DWELLING, TWO-FAMILY: A building arranged or designed to be occupied by two (2) families and having only two (2) dwelling units.

DWELLING UNIT: One or more rooms in a dwelling designed for or occupied as separate living quarters which provide sleeping and sanitary facilities and which includes kitchen facilities, all for exclusive use by a single family maintaining a household.

ELDERLY PERSON: A person who is sixty (60) years old or older who desires or needs to live with other elderly persons in a group setting, but who is capable of living independently.

EXTERNAL ILLUMINATION: Lighting which illuminates a building or structure from a remote position or from outside of the building or structure.

FAA: The federal aviation administration.

FCC: The federal communications commission.

FAMILY: Any one of the following who occupy a dwelling unit:

- A. One person living alone.
- B. Two (2) or more persons related by blood, marriage, adoption, or other legal relationship living together as a single housekeeping unit; and up to two (2) other unrelated persons residing on the same premises where the housekeeping unit is located.
- C. Two (2) or three (3) unrelated persons living together as a single housekeeping unit and the children of any of them.

FAMILY CHILD DAYCARE FACILITY: A facility licensed by the state of Utah which provides childcare in a residence for less than nine (9) children unrelated to the licensee for less than twenty four (24) hours a day, with regularly scheduled, ongoing enrollment, for direct or indirect compensation.

FAMILY CHILD RESIDENTIAL CERTIFICATE CARE FACILITY: A facility certificated by the state of Utah which provides childcare in the residence of a provider for five (5) to eight (8) children, having a regularly scheduled, ongoing enrollment, for direct or indirect compensation.

FAMILY CHILDCARE CENTER: A commercial establishment having regularly scheduled, ongoing enrollment for direct or indirect compensation that provides care, protection and supervision for five (5) or more children on a regular basis away from their primary residences for more than four (4) but less than twenty four (24) hours per day. Excludes the following:

- A. Kindergartens or nursery schools or other daytime programs operated by public or private elementary or secondary schools or institutions of higher learning;
- B. Facilities operated in connection with a fitness center, shopping center or other activity where children are cared for temporarily while parents or custodians of the children are occupied on the premises or are in the immediate vicinity and readily available; or
- C. Special activities or programs, including athletics, crafts instruction and similar activities, conducted on a periodic basis by civic, charitable, private, or governmental organizations.

FAMILY GROUP CHILD DAYCARE FACILITY: A facility licensed by the state of Utah which provides childcare in a residence for nine (9) to sixteen (16) children unrelated to the licensee for less than twenty four (24) hours a day, with regularly scheduled, ongoing enrollment, for direct or indirect compensation.

FARMERS' MARKET: An establishment or premises where farm products from local farmers are sold at retail from covered or open air areas designated for individual retailers.

FENCE: A structure serving as an enclosure, barrier, or boundary, which defines an outdoor space.

FENCE, SIGHT OBSCURING: A fence that permits vision through not more than ten percent (10%) of each square foot of fencing.

FIRE AUTHORITY: The Honeyville City volunteer fire department.

FLOOR AREA, TOTAL: See definition of Gross Floor Area.

FREIGHT TERMINAL: A building or area in which freight brought by motor trucks or rail is assembled and/or stored for routing in intrastate or interstate shipment by motor truck or rail.

FRONTAGE: All property fronting on one side of the street between intersecting or intercepting streets, or between a street and a right of way, waterway, end of a dead end street, or political subdivision boundary, measured along the street line. An intercepting street shall determine only the boundary of the frontage on the side of the street which it intercepts.

FUNERAL HOME: An establishment engaged in preparing human deceased for burial and conducting funerals.

GARAGE, PRIVATE: An accessory building designed or used for the storage of automobiles owned and used by the occupants of the building to which it is accessory.

GARDEN CENTER: An establishment primarily engaged in the retail sales of horticultural specialties, such as flowers, shrubs and trees, intended for ornamental or landscaping purposes.

GAS AND FUEL, STORAGE AND SALES: An establishment or site used for bulk storage and wholesale distribution of flammable liquid, gas or solid fuel, excluding belowground storage that is ancillary to an allowed principal use on the site.

GASOLINE SERVICE STATION: An establishment engaged in the retail sales of gasoline and petroleum products, including gasoline sales conducted as part of a convenience store.

GENERAL PLAN: A document adopted by the city council that sets forth general guidelines for proposed future development of the land within the city as set forth in section [10-2-2](#) of this title.

GOLF COURSE: A facility providing private or public golf recreation services and support facilities, but excluding miniature golf facilities.

GOVERNMENT SERVICE: Any building or facility used, owned or operated by a government entity which provides services for the public, excluding utilities and recreational services. Typical uses include administrative offices of government agencies and utility billing offices.

GRADE: A reference plane representing the average of finished ground level adjoining a building at the exterior walls. When finished ground level slopes away from an exterior wall, grade shall be the lowest point within the area between the building and the lot line or, when the lot line is more than six feet (6') from the building, between the building and a point six feet (6') from the building.

GROSS FLOOR AREA: The total floor area of a building expressed in square feet measured from the exterior of outside walls.

GUESTHOUSE: A secondary, detached dwelling unit with or without kitchen facilities located on a lot with one or more main dwelling units which is:

- A. Used for housing of guests without compensation, and
- B. Not rented, leased or sold separately from the rental, lease or sale of the main dwelling unit(s) on the lot.

HEAVY INDUSTRY: An establishment engaged in basic processing and manufacturing of materials or products predominantly from extracted or raw materials; or a use engaged in manufacturing processes utilizing flammable or explosive materials; or manufacturing processes which potentially involve hazardous or commonly recognized offensive conditions. Typical uses include chemical manufacturing and warehousing, dry ice manufacturing, fat rendering plants, fertilizer manufacturing, fireworks and explosives manufacturing and warehousing, petroleum refineries, pulp processing and paper products manufacturing, radioactive materials manufacture or use, slaughterhouses, steelworks and tanneries.

HEIGHT, BUILDING OR STRUCTURE: See definition of Building Or Structure Height.

HEIGHT, SIGN: See definition of Sign Height.

HEIGHT, STORY: The vertical distance from top to top of two (2) successive finished floor surfaces; and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

HOME OCCUPATION: A commercial or other nonresidential use conducted within a dwelling unit that is incidental and secondary to the use of the dwelling unit for residential purposes as provided in chapter 25 of this title.

HOMELESS SHELTER: A place of temporary abode for persons who have no residence.

HOSPITAL: A facility that:

Offers services more intensive than those required for room, board, personal services and general nursing care;

- A. Offers facilities and beds for use beyond twenty four (24) hours by individuals requiring diagnosis, treatment, or care for illness, injury, deformity, infirmity, abnormality, disease or pregnancy; or
- B. Regularly makes available at least clinical laboratory services, diagnostic X-ray services and treatment facilities for surgery or obstetrical care or other definitive medical treatment of similar extent; and
- C. Any accessory use such as offices for medical and dental personnel and central service facilities such as pharmacies, medical laboratories, and other related uses.

HOTEL: An establishment with or without fixed cooking facilities in individual rooms offering transient lodging accommodations to the general public, and which may provide additional services such as restaurants and meeting rooms.

HOUSEHOLD: A family living together in a one dwelling unit with common access to and common use of all living and eating areas and facilities for the preparation and serving of food within the dwelling unit.

HOUSEHOLD PET: Animals or fowl ordinarily allowed inside a dwelling unit and kept for company or pleasure, not profit, such as dogs, cats, pigeons, or rabbits, but not including:

- A. Chickens, ducks, geese, pigs or other domestic farm animals.
- B. Exotic animals.

C. A sufficient number of dogs to constitute a commercial kennel.

IMPACT FEE: A payment of money imposed upon development activity as a condition of development approval as provided in chapter 32 of this title.

JUNK OR SALVAGE YARD: Any place, establishment, or part of a lot maintained, used, or operated for collection, storage, keeping, or abandonment of wastepaper, rags, scrap metal or discard material, including dismantling, demolition of machinery or parts thereof, but excluding an automobile wrecking yard and any use which is clearly accessory and incidental to a permitted or conditional use.

KENNEL: A commercial establishment having three (3) or more dogs over the age of four (4) months for the purpose of boarding, breeding, buying, selling, grooming, letting for hire, or training for a fee.

KIOSK: A small structure, typically located within a pedestrian walkway or similar circulation area, intended for uses as a small shop, or for use as a display space for posters, notices and exhibits.

KITCHEN: An area within a dwelling unit which contains a sink, fixed cooking appliances, and refrigeration facilities.

LAND USE: See definition of Use, Land.

LAND USE APPLICATION: An application for the use or development of land required by this title.

LAND USE AUTHORITY: The person, board, commission, agency, or other body designated by the city council under this title to act upon a land use application.

LAND USE PERMIT: A permit for the use or development of land issued under the provisions of this title.

LAUNDRY OR DRY CLEANING, LIMITED: An establishment providing household laundry and cleaning, dry cleaning services, classified as low hazard in applicable codes, with customer drop off and pick up; or an establishment providing home type washing, drying, and/or ironing machines for hire to be used by customers on the premises. The term excludes large scale dry cleaning activities permitted under the definition of Laundry Services.

LAUNDRY SERVICES: An establishment primarily engaged in the large scale cleaning of laundry or that includes dry cleaning activities other than those classified as low hazard in applicable codes, but excluding laundry or dry cleaning, limited.

LIGHT SOURCE: Neon, fluorescent or similar tube lighting, an incandescent bulb, including the light producing elements therein, and any reflecting surface that, by reason of its construction or placement, becomes a light source.

LIQUOR STORE: An establishment licensed by the Utah alcoholic beverage control commission for the sale of alcoholic beverages for off site consumption.

LOT: A separately delineated parcel of real property having a number and designation shown on a recorded subdivision plat, or a contiguous quantity of real property defined in a deed by metes and bounds which has a separate property identification number according to the records of the county recorder and is not shown on a recorded subdivision plat.

LOT AREA: The total land area of a lot measured on a horizontal plane.

LOT, CORNER: A lot abutting two (2) intersecting or intercepting streets where the interior angle of intersection or interception does not exceed one hundred thirty five degrees (135°).

LOT COVERAGE: The total horizontal area of a lot covered by any building or structure which extends above the surface of the ground level, including any covered parking spaces.

LOT DEPTH: The mean horizontal distance from a front lot line to a rear lot line.

LOT, DOUBLE FRONTAGE: A lot abutting two (2) parallel or approximately parallel streets.

LOT, FLAG: A lot located to the rear of another lot, the main body of which does not front on a street and is accessed by a narrow corridor.

LOT FRONTAGE: The distance, measured along the front lot line, that a lot adjoins a street.

LOT, INTERIOR: A lot other than a corner lot.

LOT LINE: A line of record bounding a lot that divides one lot from another or from a street.

LOT LINE ADJUSTMENT: The relocation of a lot line between two (2) adjoining lots with the consent of the owners of record and which does not create a new lot.

LOT LINE, FRONT: A lot line separating a lot from an existing street or, where a new street is proposed, the proposed street right of way line as shown on the master street plan. For an interior lot, the lot line adjoining the street; for a double frontage lot, a lot line adjoining one of the streets as elected by the city.

LOT LINE, REAR: The lot line generally opposite and most distant from the front lot line, except in the case of a triangular or gore shaped lot, a "constructive" line ten feet (10') in length within the lot, parallel to the front lot line which intercepts the side lot lines at points most distant from the front lot line.

LOT LINE, SIDE: Any lot line that is not a front lot line or rear lot line. A side lot line separating one lot from another is an interior side lot line.

LOT, NONCONFORMING: A lot that:

- A. Legally existed before its current zoning designation;
- B. Has been shown continuously in the records of the county recorder as an independent parcel since its creation; and
- C. Because of subsequent zoning changes, does not conform with the lot size or other dimensional or property development standards applicable in

the zone where the lot is located.

LOT WIDTH: The distance between side lot lines, measured at the required front yard setback line as required by the zone in which the lot is located.

MAJOR LIFE ACTIVITIES: Functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

MANUFACTURED AND MOBILE HOME PARK: A lot (or contiguous lots) under one ownership designed and planned to accommodate the placement of manufactured or mobile homes on leased or rented "pads".

MANUFACTURED HOME: A transportable factory built housing unit constructed on or after June 15, 1976, according to the federal home construction and safety standards act of 1974 (HUD code), in one or more sections, which:

- A. In the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on site, is four hundred (400) or more square feet;
- B. Is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities;
- C. Includes plumbing, heating, air conditioning, and electrical systems; and
- D. Is identified by the manufacturer's data plate bearing the date the unit was manufactured and a HUD label attached to the exterior of the home certifying the home was manufactured to HUD standards.

MANUFACTURING, GENERAL: An establishment engaged in the manufacture of finished products or parts, predominantly from previously prepared materials, including processing, fabrication, assembly, treatment and packaging, and incidental storage, sales and/or distribution of such products, but excluding basic industrial processing and manufacturing activities.

MANUFACTURING, LIMITED: An establishment engaged in the limited processing, fabrication, assembly and/or packaging of products utilizing processes that:

- A. Have no noise, odor, vibration, or other impacts discernible outside a building, and
- B. Do not violate any applicable noise ordinance.

MASONRY: Stone, brick, dyed block or split faced concrete block.

MASTER STREET PLAN: A map adopted by the city council as an element of the general plan showing existing and the general location and alignment of proposed public streets and which has not been recorded in the county recorder's office.

MEDIA SERVICE: An establishment primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms, including radio, television, film or sound recording studios.

MEDICAL OR DENTAL LABORATORY: An establishment that conducts basic medical or dental research and analysis, but excluding a facility providing any type of in house patient services typically provided by hospitals and clinics.

MEDICAL SERVICE: An establishment providing therapeutic, preventive, or corrective personal treatment services on an outpatient basis by physicians, dentists, and other practitioners of the medical or healing arts, as well as the provision of medical testing and analysis services. Typical uses include medical and dental offices and clinics, blood banks and medical or dental laboratories.

MINERAL EXTRACTION: Removal of sand, gravel, dirt, or other materials by grading or excavating.

MOBILE HOME: A transportable factory built housing unit built prior to June 15, 1976, in accordance with a state mobile home code which existed prior to the federal manufactured housing and safety standards act (HUD code).

MOBILE HOME PARK: See definition of Manufactured And Mobile Home Park.

MODULAR HOME: A dwelling unit designed for long term occupancy built on a permanent foundation from component elements manufactured off site in accordance with the construction standards adopted pursuant to section 58-56-4 of the Utah code and transported to the building site.

MONUMENT, PERMANENT: A structure of concrete, masonry and/or metal permanently placed on or in the ground, including those expressly placed for surveying reference, which meets the requirements of this title.

MORTUARY: See definition of Funeral Home.

MOTEL: Any building or group of buildings containing sleeping rooms, with or without fixed cooking facilities, designed for temporary occupancy by tourists or transients, with a garage attached or parking space conveniently located to each unit.

MOTOR HOME: A motor vehicle built on a truck or bus chassis and designed to serve as self-contained living quarters for recreational travel and use.

NATURAL FEATURES: Nonmanmade land characteristics, including drainage swales, wetlands, rock outcroppings, streams, and concentrated native stands of large shrubs or trees.

NATURAL STATE: Land which has not been subjected to grading, removal of vegetation or development.

NATURAL WATERWAY: Those areas, varying in width, along streams, creeks, gullies, springs, or washes which are natural drainage channels.

NONCOMPLYING STRUCTURE: See definition of Structure, Noncomplying.

NONCONFORMING LOT: See definition of Lot, Nonconforming.

NONCONFORMING USE: See definition of Use, Nonconforming.

NONCONFORMITY, OTHER: See definition of Other Nonconformity.

OFF SITE FACILITIES AND UTILITIES: Facilities and utilities installed outside the legally described boundary of a development designed to serve such development.

OFFICE, GENERAL: A building, room or department where executive, management, administrative or professional services are provided, except medical services, and excluding the sale of merchandise, except as incidental to a principal use. Typical uses include real estate brokers, insurance agencies, credit reporting agencies, property management firms, investment firms, employment agencies, travel agencies, advertising agencies, secretarial services, data processing, telephone answering, telephone marketing, paging and beeper services and facsimile transmission services; post offices and express mail offices, excluding major mail processing and distribution; offices for utility bill collection; professional or consulting services in the fields of law, architecture, design, engineering, accounting and similar professions; interior decorating consulting services; and business offices of private companies, utility companies, public agencies, trade associations, unions and nonprofit organizations.

OFFICIAL MAP: A map adopted by the city council as an element of the general plan and recorded in the county recorder's office that:

- A. Shows actual and proposed rights of way, centerline alignments, and setbacks for highways and other transportation facilities; and
- B. Provides a basis for restricting development in designated rights of way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land.

ON SITE FACILITIES AND UTILITIES: Facilities and utilities installed within the legally described boundary of a development.

OPERATIONS CENTER: A maintenance, repair, or service facility operated by a local, state, or federal government agency.

OTHER NONCONFORMITY: A situation other than a nonconforming lot or use, noncomplying structure that:

- A. Legally existed before the current zoning designation of the lot where the nonconformity is located; and
- B. Because of subsequent land use ordinance changes does not conform with applicable requirements of this title.

OVERSIZED FACILITIES AND UTILITIES: Facilities and utilities which are designed with added capacity, width, depth, etc., with the express purpose of making service available to other properties outside the legally described perimeter of the subdivision.

OWNER: Any person who alone, jointly or severally with others, or in a representative capacity (including, without limitation, an authorized agent, executor or trustee) has legal or equitable title to any property.

PARK: A playground or other area or open space providing opportunities for active or passive recreational or leisure activities. Excludes areas for motocross, drag racing, shooting and similar activities.

PARK STRIP: The area located between a street right of way line and the edge of asphalt or curb, but not including driveways, sidewalks, or trails.

PARKING BAY: A parking area within a parking lot consisting of one or two (2) rows of parking spaces and the aisle from which motor vehicles may enter and exit parking spaces.

PARKING GARAGE, PUBLIC: A structure, or portion thereof, used for parking and storage of more than four (4) motor vehicles.

PARKING LOT, PUBLIC: A paved, open area other than a street, alley, or driveway, used for temporary parking of more than four (4) motor vehicles and available for public use, whether free, for compensation, or as an accommodation for clients or customers.

PARKING SPACE: An area designated within a building, parking lot, or other parking area for the parking or storage of one motor vehicle.

PARKING, TANDEM: A secondary parking space located directly to the rear of a primary parking space, and which when occupied, restricts access to the primary parking space.

PAWNSHOP: Any person or establishment engaged in any of the following:

- A. Lending money on deposit of personal property.
- B. Dealing in the purchase, exchange, or possession of personal property on condition of selling the same back again to the pledgor or depositor.
- C. Lending or advancing of money on personal property by taking chattel mortgage security thereon and taking or receiving possession of such personal property.
- D. Selling unredeemed pledged personal property together with such new merchandise as will facilitate the sale of such property.

PERIMETER BUILDING PAD: A separate building location, usually along the street frontage, developed or designated in connection with a larger commercial site.

PERMITTED USE: A use of land allowed within a particular zone without the necessity of obtaining a conditional use permit.

PERSON: An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity, including a trustee, receiver, assignee or similar representative of any of the foregoing.

PERSONAL CARE SERVICE: An establishment primarily engaged in the provision of frequently or recurrently needed services of a personal nature. Typical uses include beauty and barber shops, custom tailoring and seamstress shops, electrolysis studios, licensed massage therapists, portrait studios, shoe repair shops, tailors, tanning and nail salons, and weight loss centers, but excludes tattoo establishments.

PERSONAL INSTRUCTION SERVICE: An establishment primarily engaged in the provision of informational, instructional, personal improvement and similar services of a nonprofessional nature. Typical uses include art and music schools, driving and computer instruction, gymnastic and dance studios, handicraft or hobby instruction, health and fitness studios, martial arts training, and swimming clubs.

PHYSICAL OR MENTAL IMPAIRMENT:

- A. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or
- B. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning

disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, human immunodeficiency virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

PLANNED CENTER: A development comprised of a variety of uses where landscaping, parking and other improvements are provided in a comprehensive and integrated fashion.

PLANNING COMMISSION: The planning commission of Honeyville City, Utah.

PLAT: A map or other graphical depiction of land showing thereon the division of a tract of land.

PLAT, FINAL: The final drawing of a subdivision and dedication prepared for filing with the county recorder which complies with applicable provisions of this title, other titles of this code, and the Utah code.

PLAT, PRELIMINARY: A scale drawing showing a proposal to subdivide a tract of land.

PLOT PLAN: A schematic scaled drawing of a building lot or a development which:

- A. Is less detailed than a site plan, and
- B. Indicates, as may be required by this title, the placement and location of yards, property lines, adjacent parcels, utilities, topography, waterways, irrigation, drainage, landscaping, parking areas, driveways, buildings, trash containers, open storage, streets, sidewalks, curbs, gutters, signs, lighting, fences and other features of existing or proposed construction or land use.

POLLUTION SOURCE: The point of pollution source discharges of contaminants to ground water or potential discharge of the liquid forms of "extremely hazardous substances" which are stored in containers in excess of "applicable threshold planning quantities" such as storage facilities that store the liquid forms of extremely hazardous substances, septic tanks, drain fields, class V underground injection wells, landfills, gravel pits, open dumps, landfilling of sludge and seepage, manure piles, salt piles, pit privies, and animal feeding operations.

POST OFFICE: A facility or structure owned or leased by the U.S. postal service and used for collecting, sorting or distributing mail within one or more zip code areas, or providing limited retail services for the general public, such as the sale of stamps, postcards, postal insurance, and related items.

POTENTIAL CONTAMINATION SOURCES: Any facility or site which employs an activity or procedure which may potentially contaminate ground water. A pollution source is also a potential contamination source.

PRINTING AND COPYING, LIMITED: A business establishment engaged in retail photocopying, reproduction, photo developing or blueprinting services.

PRINTING, GENERAL: The production of books, magazines, newspapers and other printed matter, as well as publishing, engraving and photoengraving, but excluding printing and copying, limited.

PRODUCE STAND: A booth, stall or other area located on agricultural property where produce is sold to the general public.

PROTECTION STRIP: A strip of land between the boundary of a development and a street within the development used to control access to a public street by a property owner abutting the development.

PROTECTIVE HOUSING: A facility operated, licensed or contracted by a governmental entity, or operated by a charitable, nonprofit organization, where, for no compensation, temporary, protective housing is provided to:

- A. Abused or neglected children awaiting placement in foster care;
- B. Pregnant or parenting teens;
- C. Victims of sexual abuse; or
- D. Victims of domestic abuse.

PROTECTIVE SERVICE: A facility providing public safety and emergency services, including fire and police protection services, emergency medical and ambulance services, and towing services. Towing services means a company licensed with the State of Utah to provide towing services and also has a contract with a local law enforcement agency to provide the towing and temporary storage of vehicles that have been towed, carried, hauled or pushed from public or private property for impoundment in a public or private impound yard. This use does not include vehicle rental or sale of new or used vehicles, vehicle and equipment repair, automobile wrecking yard, junk or salvage yard, or a freight terminal.

PUBLIC: That which is under the ownership or control of the United States government, Utah state or any subdivision thereof, Box Elder County, or Honeyville City (or any departments or agencies thereof).

PUBLIC ENTRANCE: An entrance to a building or premises customarily used or intended for use by the general public but excluding fire exits, special employee entrances, and loading dock entrances not generally used by the public.

PUBLIC HEARING: A hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

PUBLIC MEETING: A meeting required to be open to the public under the open and public meetings act, title 52, chapter 4 of the Utah code.

REASONABLE ACCOMMODATION: A change in a rule, policy, practice, or service necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling. See section [10-27-6](#) of this title. As used in this definition:

- A. "Reasonable" means a requested accommodation will not undermine the legitimate purposes of existing zoning regulations notwithstanding the benefit that the accommodation would provide to a person with a disability.
- B. "Necessary" means the applicant must show that, but for the accommodation, one or more persons with a disability likely will be denied an equal opportunity to enjoy housing of their choice.
- C. "Equal opportunity" means achieving equal results as between a person with a disability and a nondisabled person.

RECEPTION CENTER: A facility rented for private social gatherings.

RECORD OF SURVEY MAP: A map of a survey of land prepared in accordance with section 17-23-17 of the Utah code.

RECREATION FACILITY, INDOOR: An establishment offering recreation, entertainment or games of skill to the general public that is wholly enclosed in a building. Typical uses include bowling alleys, indoor theaters, bingo parlors, pool halls, billiard parlors, video game arcades, racquetball and handball courts, and amusement rides.

RECREATION FACILITY, OUTDOOR: An establishment offering recreation, entertainment or games of skill to the general public or members wherein any portion of the activity takes place in the open. Typical uses include archery ranges, batting cages, golf driving ranges, drive-in theaters, miniature golf courses, tennis courts, and amusement rides.

RECREATIONAL VEHICLE: A vehicular unit designed as a temporary human habitation for travel, recreation, and vacation use that is either self-propelled or is mounted on or pulled by another vehicle, including, but not limited to, a travel trailer, truck camper, or motor home.

RECREATIONAL VEHICLE LOT: A plot of ground within a recreational vehicle park designed for the accommodation of one recreational vehicle.

RECREATIONAL VEHICLE PARK: Any site, tract, or parcel of land on which facilities have been developed to provide temporary living quarters for two (2) or more recreational vehicles.

REHABILITATION/TREATMENT FACILITY: A facility licensed by or contracted by the state of Utah to provide temporary occupancy and supervision of adults or juveniles in order to provide rehabilitation, treatment, counseling, or educational services. Without limitation, such services may include rehabilitation, treatment, counseling, or assessment and evaluation services related to delinquent behavior, alcohol and drug abuse, sex offenders, sexual abuse, or mental health. See section [10-27-7](#) of this title.

REPAIR SERVICE: An establishment primarily engaged in providing repair services, but excluding vehicle and equipment repair. Typical uses include appliance repair shops, computer and other electronic equipment repair, furniture repair and upholstery shops, watch or jewelry repair shops, and musical instrument repair shops.

RESEARCH SERVICE: An establishment engaged in industrial, medical, or scientific inquiries.

RESIDENCE: A dwelling unit where an individual is actually living at a given point in time and intends to remain, and not a place of temporary sojourn or transient visit.

RESIDENTIAL FACILITY FOR ELDERLY PERSONS: A single-family or multiple-family dwelling unit that meets the requirements of section 10-9a-103 (39) of the Utah code or its successor.

RESIDENTIAL FACILITY FOR PERSONS WITH A DISABILITY: A residence in which more than one person with a disability resides and is licensed or certified by:

- A. The Utah department of human services under title 62A, chapter 2 of the Utah code (licensure of programs and facilities), or
- B. The Utah department of health under title 26, chapter 21 of the Utah code (health care facility licensing and inspection act).

RESTAURANT, FAST FOOD: An establishment that sells ready to eat food and beverages quickly and which has one or more of the following characteristics:

- A. Food and beverage orders are not taken at the customer's table;
- B. Food and beverages are generally served in disposable wrapping or containers; or
- C. Food and beverages are offered directly to the customer in a motor vehicle from a "drive-up" service window.

RESTAURANT, GENERAL: An establishment that derives not less than fifty percent (50%) of its gross receipts from the sale of food and beverages for consumption on the premises and which has one or more of the following characteristics:

- A. Food and beverage orders are taken at the customer's table from an individually provided menu;
- B. Food and beverages are served in nondisposable containers by a restaurant employee at the same table or counter where said items are consumed;
- C. Food and beverages are generally self-served in nondisposable containers and consumed on the premises; or
- D. A restaurant having some characteristics of a fast food restaurant, other than drive-up service, which is located exclusively within a shopping center, shares common parking facilities with other businesses within the center, and has access to a common interior pedestrian accessway.

RETAIL, GENERAL: An establishment that rents or sells goods to the public, but excluding uses specifically classified in another definition herein. Typical uses include apparel stores, antique shops, art and hobby supply stores, bicycle shops, bookstores, clothing rental stores, department stores, discount stores, drugstores, electronic appliance stores, florists, food stores, furniture and appliance stores, gift and novelty shops, glass and mirror shops, hardware stores, jewelry stores, medical supply stores, music stores, optical retail sales, paint stores, pet stores, photocopying and blueprinting shops, photography supply stores, record, tape and video stores, sporting goods stores, toy stores and variety stores.

ROOFLINE: The highest point on any building where an exterior wall encloses usable floor space (including roof areas for housing mechanical equipment) and the highest point on any parapet wall if the parapet wall extends around the entire perimeter of the building.

SANITARY LANDFILL: A disposal site where solid wastes, including putrescible wastes, or hazardous wastes, are disposed of on land by placing earth cover thereon.

SANITARY SEWER AUTHORITY: The Bear River health department.

SCHOOL, CHARTER: See definition of Charter School.

SCHOOL, ELEMENTARY, MIDDLE, OR HIGH: Any building or group of buildings or premises approved by the state of Utah for public or private elementary or secondary instruction.

SCHOOL, VOCATIONAL: An establishment, for profit or not, offering regularly scheduled instruction in technical, commercial or trade skills, such as, but not limited to, business, real estate, building and construction trades, electronics, computer programming and technology, automotive and aircraft mechanics and technology, and similar types of instruction.

SECONDHAND STORE: A retail establishment that engages in the purchase and resale of used goods such as clothing, furniture, appliances, books, and other household items.

SENIOR CENTER: A facility sponsored or administered by a public or private entity which provides residences or other services for senior citizens.

SENSITIVE LAND: Any land area whose destruction or disturbance could affect the health, safety, or welfare of city residents, including wetlands, steep slopes, floodplains, and unstable soils.

SEPTIC TANK/DRAIN FIELD SYSTEMS: A sanitary sewer system comprised of a septic tank and a drain field which accepts domestic wastewater from buildings or facilities for subsurface treatment and disposal.

SEWAGE FACILITIES: Sanitary sewage collection systems, sewage treatment plants or approved individual sewage disposal facilities as may be permitted by local and state health department regulations.

SEXUALLY ORIENTED BUSINESS: See chapter 28 of this title.

SHOPPING CENTER: A group of three (3) or more commercial establishments that is planned, developed, and managed as a unit with common areas for off street parking and landscaping provided on the property.

SIGN: Any object, device, display, or structure, or a part thereof, which uses words, letters, figures, designs, symbols, fixtures, colors, illumination, or a projected image to visually convey a commercial and/or noncommercial message for the purpose of identifying, directing, attracting attention, or making known the subject thereof.

SIGN ALTERATION: Changing or rearranging any structural part, sign face, enclosure, lighting, coloring, copy (except on changeable copy signs), graphics, component, or location of a sign.

SIGN, ANIMATED: A sign with parts or sections which revolve or move or which has flashing or intermittent lights, including an electronic message sign.

SIGN AREA: The portion of a sign used for display purposes as provided in chapter 21 of this title.

SIGN, BANNER: A sign made of fabric, plastic, or other light pliable material.

SIGN, BILLBOARD: A freestanding sign that identifies or communicates a commercial or noncommercial message regarding an activity, service, product, or matter that is not conducted on or related to the lot where the sign is located.

SIGN, CHANGEABLE COPY: A sign on which text or copy is changed manually or electronically, but not including poster panels or painted bulletins.

SIGN CLEARANCE: The height of the lower edge of the face of a sign from the finished grade.

SIGN, CONFORMING: A sign which meets all applicable provisions of this title.

SIGN, DOUBLE FACED: A sign where the faces are mounted back to back and which has an interior angle between the two (2) faces of thirty degrees (30°) or less.

SIGN, ELECTRONIC MESSAGE: A display consisting of an array of light sources, panels or disks which are electronically activated.

SIGN FACE: The surface of a sign upon, against or through which a message is displayed or illustrated.

SIGN, FREESTANDING: A sign which is supported by a fixed permanent frame or support mounted in the ground with the sign portion elevated at least ten feet (10') above the ground.

SIGN HEIGHT: The vertical distance measured from the elevation of the nearest top back of curb, or, if there is no curb within twenty five feet (25'), from the lowest point of the finished grade on the lot where a sign is located and within twenty five feet (25') of the sign, to the uppermost point on the sign or the sign structure.

SIGN, ILLUMINATED OR LIGHTED: A sign equipped with artificial lighting devices for the purpose of improving the sign's visibility.

SIGN, LOW PROFILE: A sign mounted directly, or in close proximity, to the ground, and not over seven feet (7') in height from the top of any required landscaped berm to the top of the sign cabinet which is incorporated into some form of landscaping design scheme, planter box, or berm.

SIGN MAINTENANCE: The replacing, repairing, or repainting of a portion of a sign structure, periodic changing of bulletin board panels, or renewing of copy that has been made unusable by ordinary wear and tear, weather or accident.

SIGN, NONCONFORMING: A sign or sign structure which lawfully existed at the time an applicable zoning or other ordinance became effective but which does not presently conform to all the requirements of this title.

SIGN, OFF PREMISES: Any sign, including a billboard or general outdoor advertising device, that advertises or directs attention to a business, commodity, service, activity, or matter conducted, sold, or offered elsewhere than on the same lot upon which the sign is located.

SIGN, ON PREMISES: A sign located on the lot which it serves.

SIGN, POLE: See definition of Sign, Freestanding.

SIGN, PORTABLE: A sign, with or without changeable copy, intended for temporary use which is not permanently affixed to the ground or a structure such as an A-frame, poster, banner, or similar sign.

SIGN, PROJECTING: A sign attached to a building or extending in whole or in part fifteen inches (15") or more horizontally beyond the surface of the building to which the sign is attached.

SIGN, PROMOTIONAL: A temporary attention getting device such as banners, streamers, flags, balloons, pennants, and inflated signs.

SIGN, ROOF: A sign that projects over a roof and is wholly or partly supported by the roof.

SIGN SEPARATION: The horizontal distance between two (2) or more signs without regard to property lines.

SIGN SETBACK: The horizontal distance between a property line and the closest edge of a sign structure.

SIGN, TEMPORARY: A sign intended to be displayed for a temporary period of time.

SIGN, WALL: A sign displayed upon or against the wall of a building, where the exposed face of the sign is parallel to the wall and extends not more than fifteen inches (15") horizontally from the face of the wall.

SITE PLAN: A schematic, scaled drawing of a building lot or location which indicates, as may be required by this title, the placement and location of yards, property lines, adjacent parcels, utilities, topography, waterways, irrigation, drainage, landscaping, parking areas, driveways, buildings, trash containers, open storage, streets, sidewalks, curbs, gutters, signs, lighting, fences and other features of existing or proposed construction or land use.

STABLE, PRIVATE: A detached accessory building for the keeping of horses, the majority of which are owned by the occupants of the premises.

STABLE, PUBLIC: A commercial establishment that boards, breeds, trains, raises, or rents horses for riding or other equestrian activities.

START OF CONSTRUCTION: The issuance date of a building permit, provided that construction, repair, reconstruction, placement, or other improvement begins within one hundred eighty (180) days of the permit date. "Begins" means either the first placement of permanent construction of a structure on a site, such as the pouring of a 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. "Begins" does not include:

- A. Land preparation, such as clearing, grading and filling;
- B. Installation of streets and/or walkways;
- C. Excavation for a basement, footings, piers, or foundations or the erection of temporary forms; or
- D. Installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

STORY: That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above.

STREET: A public right of way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.

STREET, COLLECTOR: A street, existing or proposed, which is the main means of access to the major street system, and shall have a right of way equal to that shown on the master street plan.

STREET, CUL-DE-SAC: A minor terminal street provided with a turnaround.

STREET, MAJOR: A street which serves or is intended to serve as a major trafficway and is designated on the master street plan as a controlled access highway, major street, parkway or other equivalent term identifying those streets comprising the basic structure of the master street plan.

STREET, MINOR: A street which is supplementary to a collector street and of limited continuity which serves or is intended to serve the local needs of a neighborhood, and shall have a right of way equal to that shown on the master street plan or, sixty feet (60') if not defined on a master street plan.

STREET, PRIVATE: A right of way at least fifty feet (50') in width within a development reserved by dedication for private access to lots within a development and not publicly accepted or maintained.

STREET, PUBLIC: See definition of Street.

STREET, STUB: A street extending from within the subdivision to the boundary thereof and temporarily terminating there with no permanent vehicular turnaround. Stub streets are provided to permit access to adjacent parcels of land.

STREET WIDTH: The distance back to back of curb or curb-gutter, or on a street where gutter or curb-gutter does not exist, the width of the street pavement.

STRUCTURAL ALTERATION: Any change in supporting members of a building or structure, such as bearing walls, columns, beams or girders.

STRUCTURE: Any building, shelter, sign, wall, fence, pole or other improvement with a fixed location on the ground or attached to something having a location on the ground.

STRUCTURE, NONCOMPLYING: A structure that:

- A. Legally existed before its current zoning designation; and
- B. Because of subsequent land use ordinance changes, does not conform with the setbacks, height restrictions, or other regulations that govern the use of land.

SUBDIVIDER: Any person who undertakes to create a subdivision.

SUBDIVISION: Any land that is divided, resubdivided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

A. Subdivision includes:

1. The division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and
2. Except as provided in subsection B of this definition, divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

B. Subdivision does not include:

1. A bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable provision of this title.
2. A recorded agreement between owners of adjoining unsubdivided properties adjusting their mutual boundary if:
 - a. No new lot is created; and
 - b. The adjustment does not violate an applicable provision of this title.
3. A recorded document, executed by the owner of record:
 - a. Revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or
 - b. Joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances.
4. A recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:
 - a. No new dwelling lot or housing unit will result from the adjustment; and
 - b. The adjustment will not violate any applicable provision of this title.
5. The joining of a subdivided parcel of property to another parcel of property that has not been subdivided as to the unsubdivided parcel of property.

SUBSTANTIAL ACTION: Action taken in good faith to exercise development rights authorized pursuant to a development approval given under the authority of this title.

SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction, or improvement of a building or structure, the total cost of which equals or exceeds, or, if before completion, is estimated to equal or exceed, fifty percent (50%) of the market value of the structure either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. Substantial improvement includes the first alteration of any wall, ceiling, floor, or other structural part of the building or structure.

TANDEM PARKING: See definition of Parking, Tandem.

TATTOO ESTABLISHMENT: Any location, place, area, structure, or business used for the practice of affixing a permanent mark or design on or under the skin by a process of cutting for the purpose of scarring or pricking or ingrainings an indelible pigment, dye, or ink in the skin, or instruction for such a practice.

TAVERN: An establishment licensed by the Utah alcoholic beverage control commission for serving liquor by the drink to the general public.

TEMPORARY DWELLING: See definition of Dwelling, Temporary.

TEMPORARY TRAILER: A temporary trailer or structure utilized solely by a builder during construction of a project for purposes incidental to the construction work on the property.

TOTAL HEIGHT: The distance measured from ground level to the blade extended at its highest point (tower and turbine combined).

TOWER: The supporting structure on which the turbine and accessory equipment are mounted.

TRANSITIONAL HOUSING FACILITY: A facility owned, operated or contracted by a governmental entity, or a charitable, nonprofit organization, where, for no compensation, temporary housing is provided to homeless persons, while they obtain work, job skills, or otherwise take steps to stabilize their circumstances. A transitional housing facility shall not include a homeless shelter.

TRANSPORTATION SERVICE: An establishment that moves people or goods and services. Typical uses include taxicab service, passenger autos for rent with drivers, ambulance service, and parcel delivery service.

TRANSPORTATION TERMINAL: A building or premises for the transient housing or parking of vehicles and for the pick up and discharge fare paying passengers. Accessory uses may include ticket offices, luggage checking facilities, and similar uses.

TURBINE: That portion of the wind system which includes the blades, generator and tail.

USE, ACCESSORY: A subordinate use customarily incidental to a permitted or conditional use and located on the same lot as such use.

USE, CONDITIONAL: A main use that, because of its unique characteristics or potential impact on the city, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

USE, ILLEGAL: A use that is not allowed where located as a permitted use, conditional use, accessory use, or nonconforming use.

USE, INCOMPATIBLE: A use which is different in activity, intensity, or utilization which is or will be in conflict with uses on adjoining lots.

USE, LAND: The purpose or activity for which land, a lot, or building or structure thereon, is designed, arranged or intended, or for which it is occupied or maintained.

USE, MAIN: The primary purpose for which a lot or structure is designed, arranged or intended, or for which it is occupied or maintained as allowed by the provisions of this title.

USE, NONCONFORMING: A use of land that:

- A. Legally existed before the current zoning designation of the land where the use is located;
- B. Has been maintained continuously since the time the zoning designation governing the land changed; and

C. Because of subsequent zoning changes, does not conform with the zoning regulations that now govern the use of the land.

USE, PERMITTED: A main use of a building, structure, or land allowed in one or more of the respective zones set forth in this title and which may be lawfully established provided it conforms with applicable provisions of this title.

USE, TEMPORARY: A use not allowed as a permitted, conditional or accessory use where located and which is established for a limited time with the intent to discontinue the use upon expiration of the time period authorized by a temporary use permit.

UTILITY, MAJOR: A facility, other than collection or distribution lines or supporting structures thereto, of any agency which, under public franchise or ownership, provides the general public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection or other similar service. Excludes corporate or general offices, storage or service buildings or yards, gas or oil processing, manufacturing or storage facilities or postal facilities, or other uses defined in this section. Typical uses include commercial radio, television and microwave communication towers, electric generation plants or substations, railroad switching yards, reservoirs, sanitary landfills and water and wastewater treatment plants.

UTILITY, MINOR: A facility of any agency under public franchise or ownership to provide services deemed necessary to support development which involve only minor structures, such as poles and lines, but not including utility substations.

UTILITY SUBSTATION, PUBLIC: Any aboveground device of a water, irrigation, sewer, natural gas, electrical, telecommunications (including, but not limited to, radio, telephone and cellular telephone), cable television, or other public or private utility system intended to regulate the function of a utility line or which receives or transmits a signal. Excluded from this definition are:

- A. Conventional utility poles, features or equipment to be placed on such a pole, light poles;
- B. Features or equipment whose primary benefit is limited to the building or land use where the feature or equipment is located; and
- C. Features or equipment with maximum horizontal and vertical dimensions of three feet (3').

VARIANCE: A waiver or modification granted by the board of adjustment to a height, bulk, area, width, setback, separation, or other numerical or quantitative requirement of this title as permitted by this title.

VEHICLE: A properly licensed automobile, truck, trailer, boat or other device in which a person or thing is or can be transported from one place to another.

VEHICLE AND EQUIPMENT RENTAL OR SALE: An establishment engaged in the sale or rental from the premises, of motor vehicles or equipment, along with incidental service or maintenance. Typical uses include new and used automobile and truck sales, automobile rental, boat sales, motorcycle sales, construction equipment rental yards, moving trailer rental and farm equipment and machinery sales and rental.

VEHICLE AND EQUIPMENT REPAIR, GENERAL: An establishment primarily engaged in the major repair or painting of motor vehicles or heavy equipment, including auto body repairs, installation of major accessories and transmission and engine rebuilding services. Typical uses include major automobile repair garages, farm equipment repair and paint and body shops.

VEHICLE REPAIR, LIMITED: An establishment providing motor vehicle repair or maintenance services within completely enclosed buildings, but not including paint and body shops or other general vehicle repair services. Typical uses include businesses engaged in the following activities: electronic tune ups, brake repairs (including drum turning), air conditioning repairs, generator and starter repairs, tire repairs, front end alignments, battery recharging, lubrication, and sales, repair and installation of minor parts and accessories such as tires, batteries, windshield wipers, hoses, windows, etc.

VETERINARY SERVICE: An establishment providing medical care and treatment for large and small animals, which may include accessory grooming or boarding services. Veterinary service does not include an animal hospital.

VICINITY PLAN: A drawing showing the relationship of proposed real property development to adjoining property.

VIOLATION: The act of disregarding, disobeying, neglecting, omitting or refusing to comply with the requirements or enforcement of this title.

WAREHOUSE, SELF-SERVICE STORAGE: An enclosed storage facility of a commercial nature containing independent, fully enclosed bays which are leased to persons exclusively for storage of their household goods or personal property.

WATER FACILITIES: Culinary water facilities that include water, water supply, springs, wells, transmission and distribution pipelines, service laterals, pumps, valves, fittings, reservoirs, fire hydrants, and all appurtenant facilities necessary to provide and deliver an adequate quantity of an approved quality of water to a lot. An "adequate quantity of water" means:

- A. For a lot not served by a secondary water system, culinary water furnished at three and four-tenths (3.4) gallons per minute of water at forty (40) psi minimum to a dwelling unit located on a lot or each ten thousand (10,000) square feet of lot area.
- B. For a lot with a secondary water source, culinary water furnished at one and seven-tenths (1.7) gallons per minute of water at forty (40) psi minimum to a dwelling unit located on a lot.
- C. For fire suppression purposes, culinary water furnished at one thousand (1,000) gallons per minute for two (2) hours, with a residual pressure of no less than twenty (20) psi, from each of two (2) fire hydrants located not more than five hundred feet (500') from a dwelling unit.

WELLHEAD: The upper terminal of a well, including adapters, ports, seals, valves and other attachments.

WHOLESALE AND WAREHOUSING, GENERAL: An establishment that is primarily engaged in the storage and sale of goods to other firms for resale, as well as activities involving significant movement and storage of products or equipment. Uses include major mail distribution centers, frozen food lockers, moving and storage firms, and warehousing and storage facilities.

WHOLESALE AND WAREHOUSING, LIMITED: An establishment that is engaged in the small scale storage and sale of goods to other businesses for resale, excluding self-storage warehouses, major distribution centers, motor freight terminals, moving and storage firms and similar high volume, high turnover facilities. Limited wholesale and warehouse area will generally be under fifty thousand (50,000) square feet in area and operate during conventional business hours.

WIND ENERGY SYSTEM, COMMERCIAL. COMMERCIAL WIND ENERGY SYSTEM: A wind energy conversion system consisting of one or more wind turbine(s) and tower(s), with associated control or conversion electronics which will be used for on-site and/or off-site consumption of power with a rated capacity in excess of one hundred kW.

WIND ENERGY SYSTEM. SMALL WIND ENERGY SYSTEM: A wind energy conversion system consisting of a wind turbine, a tower and associated control or conversion electronics with a rated capacity appropriate to the on-site electric usage of the end use and which will be used primarily to reduce on-site consumption of utility power (limited to one per lot or parcel, or up to four on agricultural properties with twenty acres or more-systems with multiple towers may cluster towers/facilities together). A small wind energy system shall not exceed a rated capacity of one hundred kW.

WIND MONITORING TOWER AND EQUIPMENT (met tower): A temporary tower housing or supporting wind measuring equipment such as an anemometer for the purpose of establishing the viability of windgenerated energy by measuring and monitoring wind velocity, duration, intensity, regularity, etc.

WIRELESS TELECOMMUNICATIONS FACILITY: An unmanned structure consisting of equipment used primarily for the transmission, reception or transfer of voice or data through radio wave or wireless transmissions as provided in title 47, United States Code, section 332(c)(7)(C), as amended.

YARD: An open space located between a front, rear, or side building line and an adjoining lot line which is unoccupied and unobstructed from the ground upwards by any portion of a building or structure, except as specifically provided in this title.

YARD DEPTH: The least horizontal distance between a lot line and a building line.

YARD, FRONT: A space on the same lot extending across the full width of the lot between the front building line and the front lot line. The depth of the front yard is the minimum distance required by this title between the front lot line and the front building line.

YARD, REAR: A space on the same lot extending across the full width of the lot between the rear building line and rear lot line. The depth of the rear yard is the minimum distance required by this title between the rear lot line and rear building line.

YARD, SIDE: A space on the same lot extending from the front building line to the rear building line between the side building line and the side lot line. The width of a side yard is the minimum distance required by this title between the side building line and the side lot line.

ZONE: An area of the incorporated territory of the city as shown on the official zoning map which has been given a designation which regulates and restricts the erection, construction, reconstruction, alteration, repair or use of buildings or structures, or the use of land all as set forth in this title.

ZONING ADMINISTRATOR: The person charged with principal responsibility for interpreting and applying the provisions of this title.

*Adopted by Ord. 2007-02 on 7/11/2007
Amended by Ord. 2010-01 on 5/12/2010
Amended by Ord. 2015-01 on 4/8/2015*

10-3-5: ILLUSTRATIONS

For the convenience of users of this title, certain terms may be illustrated and attached to the ordinance codified herein as appendix A. If any conflict arises between an illustration and a definition, the definition shall apply.

Adopted by Ord. 2007-02 on 7/11/2007

Chapter 4: LAND USE AND APPEAL AUTHORITIES

10-4-1: PURPOSE

10-4-2: SCOPE

10-4-3: CITY COUNCIL

10-4-4: PLANNING COMMISSION

10-4-5: BOARD OF APPEALS

10-4-6: ZONING ADMINISTRATOR

10-4-1: PURPOSE

The purpose of this chapter is to set forth the land use and appeal authorities responsible for administering the provisions of this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-4-2: SCOPE

The authority of the land use and appeal authorities set forth in this chapter shall apply to the entirety of this title, subject to its various provisions.

Adopted by Ord. 2007-02 on 7/11/2007

10-4-3: CITY COUNCIL

Powers and Duties Related to this Title:

- A. In administering this title, the City Council shall have the powers and duties granted under Utah law and set forth below. Each of such powers and duties shall be exercised pursuant to the procedural and other applicable provisions of Utah law and this title.
 1. Adopt, modify, or reject a proposed general plan or any amendment thereto for all or part of the City and its surroundings.
 2. Adopt, modify, or reject proposed amendments to the text of this title and to the zoning map.
 3. Approve, approve with conditions, or deny subdivision applications.
 4. Approve, approve with conditions, or deny conditional use permit applications.
 5. Establish a fee schedule for applications required by provisions of this title.

*Adopted by Ord. 2007-02 on 7/11/2007
Amended by Ord. 2009-05 on 4/8/2009*

10-4-4: PLANNING COMMISSION

- A. Established: A planning commission, consisting of seven (7) members, is hereby established to exercise the powers and duties specified herein. Members of the planning commission shall serve without compensation, except for reasonable expenses incurred in performing their duties as

members of the commission.

B. Appointment And Term Of Office:

1. Planning commission members shall be appointed by the mayor with the advice and consent of the city council.
 - a. The terms of planning commission members shall be staggered. Each member of the planning commission shall serve for a term of four (4) years and until a successor is appointed.
 - b. Terms of planning commission members shall begin on or before the first Monday in February of each year.
 - c. Planning commission members may be reappointed for successive terms.
 - d. The mayor, with the advice and consent of the city council, may remove any member of the planning commission for cause upon written charges filed with the mayor. If requested, the member shall be afforded a public hearing.
 - e. A vacancy occurring on the planning commission by reason of death, resignation, removal, disqualification or any other reason shall be promptly filled by a replacement appointed in the same manner as the original appointment for the remainder of the unexpired term of the replaced member.
2. In addition to the seven (7) members of the planning commission, the mayor, with the advice and consent of the city council, may appoint one alternate planning commission member. The term, reappointment, removal, and vacancy of the alternate planning commission member shall be governed in the same manner as for a regular planning commission member. The alternate member shall serve in the absence of a regular member.
3. Members and alternate members of the planning commission shall be deemed "volunteers" for purposes of city ordinances, rules, regulations and policies concerning personnel; provided, however, they shall be included in the definition of "employee" for purposes of the governmental immunity act of Utah as set forth in section 63G-7-101 et seq., of the Utah code, as amended.

C. Organization And Procedure: The planning commission shall be organized and exercise its powers and duties as follows:

1. Members of the planning commission shall elect one of its members as chair to oversee the proceedings and activities of the planning commission, and shall adopt rules for the transaction of business and the conduct of its proceedings.
 - a. The chair shall serve for a term of one year.
 - b. The planning commission shall elect one of the planning commission members as vice chair to act in the absence of the chair.
 - c. The chair and vice chair may be reelected for successive terms.
2. The planning commission may adopt reasonable policies and procedures, consistent with the provisions of this title and applicable law to govern the conduct of its meetings, the processing of applications, and for any other purpose considered necessary for the proper functioning of the commission.
3. The planning commission shall meet on a regular date each month, as determined by a resolution of the city council, upon recommendation of the planning commission, and at such other times as the planning commission may determine. Each meeting shall be properly noticed and held in accordance with the open and public meetings act, as amended.
4. No official business shall be conducted by the planning commission unless a quorum of its members is present. Four (4) members shall constitute a quorum. The minimum number of votes required for a majority vote shall be four (4).
5. Decisions of the planning commission shall become effective at the meeting or hearing in which the decision is made.
6. The planning commission shall keep written minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact, and shall keep records of its official actions.
 - a. The planning commission shall transmit reports of its official actions to the city council. Any member of the commission may also make a concurring or dissenting report or recommendation to the city council.
 - b. The minutes of all meetings of the planning commission shall be prepared and filed in the office of the city recorder. Planning commission minutes and reports are public records and shall be available for public review and access in accordance with the government records access and management act, as amended.

D. Powers And Duties: The planning commission shall have all the powers and duties, explicit or implied, given planning commissions by Utah state law, including, but not limited to, the following. Each of such powers and duties shall be exercised pursuant to the procedural and other provisions of this title.

1. Prepare and recommend a general plan and amendments to the Honeyville general plan to the city council, as provided in section [10-5-6](#) of this title.
2. Recommend land use ordinances, zoning maps, official maps, and amendments to the city council, as provided in section [10-5-7](#) of this title.
3. Recommend an appropriate delegation of power to at least one designated land use authority to hear and act on land use applications.
4. Recommend application processes that:
 - a. May include a designation of routine land use matters that, upon application and proper notice, will receive informal streamlined review and action if the application is uncontested; and
 - b. Shall protect the right of each:
 - (1) Applicant and third party to require formal consideration of any application by a land use authority;
 - (2) Applicant, adversely affected party, or municipal officer or employee to appeal a land use authority's decision to a separate appeal authority; and
 - (3) Participant to be heard in each public hearing on a contested application.
5. Administer applicable provisions of this title.
6. Advise the city council as requested by the council.
7. Exercise any other power necessary to enable the planning commission to perform its duties.

E. Entrance Upon Land: The planning commission and its authorized agents may enter upon any land at reasonable times to make examinations and surveys pertinent to the:

1. Preparation of its general plan; or
2. Preparation or enforcement of the city's land use ordinances.

F. Appeals: Any person adversely affected by a final decision of the planning commission may appeal that decision to the board of appeals by filing a written appeal stating the grounds therefor within ten (10) days from the date of the decision.

Adopted by Ord. 2007-02 on 7/11/2007

10-4-5: BOARD OF APPEALS

- A. Established:** In order to provide for just and fair treatment in the administration of this title, and to ensure that substantial justice is done, a board of

appeals, consisting of five (5) members, is hereby established to exercise the powers and duties specified herein. Members of the board of appeals shall serve without compensation, except for reasonable expenses incurred in performing their duties as members of the board.

B. Appointment And Term Of Office:

1. Board of appeals members shall be appointed by the mayor with the advice and consent of the city council.
 - a. The terms of board of appeals members shall be staggered. Each member of the board of appeals shall serve for a term of five (5) years and until a successor is appointed; provided, that the term of the first members shall be such that the term of one member shall expire each year.
 - b. Terms of board of appeals members shall begin on or before the first Monday in February of each year.
 - c. Board of appeals members may be reappointed for successive terms.
 - d. The mayor, with the advice and consent of the city council, may remove any member of the board of appeals for cause upon written charges filed with the mayor. If requested, the member shall be afforded a public hearing.
 - e. A vacancy occurring on the board of appeals by reason of death, resignation, removal, disqualification or any other reason shall be promptly filled by a replacement appointed in the same manner as the original appointment for the remainder of the unexpired term of the replaced member.
2. In addition to the five (5) members of the board of appeals, the mayor, with the advice and consent of the city council, may appoint two (2) alternate board of appeals members. The term, reappointment, removal, and vacancy of alternate board of appeals members shall be governed in the same manner as for regular members. Alternate members shall serve on the board of appeals in the absence of a regular member.
3. Members and alternate members of the board of appeals shall be deemed "volunteers" for purposes of city ordinances, rules, regulations and policies concerning personnel; provided, however, they shall be included in the definition of "employee" for purposes of the governmental immunity act of Utah as set forth in section 63G-7-101 et seq., of the Utah code, as amended.

C. Organization And Procedure: The board of appeals shall be organized and exercise its powers and duties as follows:

1. Members of the board of appeals shall select one of its members as chair to oversee the proceedings and activities of the board, and shall adopt rules for the transaction of business and the conduct of its proceedings.
 - a. The chair shall serve for a term of one year.
 - b. The chair, with the advice and consent of the board of appeals, shall appoint one board member as vice chair to act in the absence of the chair. The chair and vice chair may be reelected for successive terms. The chair, or in the absence of the chair, the vice chair, may administer oaths and compel the attendance of witnesses.
2. The board of appeals may adopt reasonable policies and procedures, consistent with the provisions of this title, to govern the conduct of its meetings, the processing of applications, and for any other purposes considered necessary for the functioning of the board.
3. The board of appeals shall meet as needed to consider any matter within the board's jurisdiction.
 - a. Each member shall be notified of any meeting or hearing of the board and shall be provided with the same information and access to city resources as any other member.
 - b. At a hearing of any matter the parties affected may appear in person with or without an attorney.
 - c. Only those decisions in which a land use authority has applied a provision of this title to a particular application, person, or lot may be appealed to the board of appeals.
 - (1) The board shall not entertain an appeal of a matter in which the board, or any participating member, first acted as a land use authority.
 - (2) An appellant shall have the burden of proving the land use authority erred.
 - d. The board of appeals shall:
 - (1) Act in a quasi-judicial manner.
 - (2) Respect the due process rights of each participant.
 - (3) Serve as the final arbiter of issues involving the interpretation or application of this title by reviewing the record of the matter and shall not conduct a hearing de novo.
 - (4) Determine the correctness of a decision of a land use authority in interpreting and applying the provisions of this title.
 - (5) Not require an appellant to pursue duplicate or successive appeals before the board as a condition of the appellant's duty to exhaust administrative remedies. An appellant may not raise a theory of relief in district court unless such theory was first raised before the board of appeals. If an appellant fails to raise a theory at a hearing, the board shall, at the appellant's request, consider such theory at a subsequent hearing.
 - (6) Act with reasonable diligence and decide any matter brought before the board within a reasonable time.
4. The minutes of all meetings of the board of appeals shall be prepared and filed in the office of the city recorder. Board minutes and reports are public records and shall be available for public review and access in accordance with the government records access and management act, as amended. All meetings shall be properly noticed and held in accordance with the open and public meetings act, as amended.
5. No official business shall be conducted by the board of appeals unless a quorum of its members is present. The concurring vote of three (3) board of appeals members is necessary to reverse any order, requirement, decision or determination of any administrative official or agency, to decide in favor of an appellant, or to approve any variance to this title.
6. The board of appeals shall keep written minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact, and keep records of its examinations and other official actions.
 - a. The board of appeals shall transmit reports of its official acts to the city council.
 - b. The minutes of all meetings of the board of appeals shall be prepared and filed in the office of the city recorder. All records in the office of the board of appeals are public records and shall be available for public review and access in accordance with the government records access and management act, as amended.

D. Powers And Duties: The board of appeals shall have all the powers and duties, explicit or implied, given to an appeal authority by Utah state law, including, but not limited to, the following. Each of such powers and duties shall be exercised pursuant to the procedural and other provisions of this title.

1. Hear and decide appeals from zoning decisions applying the provisions of this title, as provided in section [10-5-21](#) of this title.
2. Hear and decide appeals from city council decisions regarding conditional use permits, as provided in section [10-5-14](#) of this title.
3. Hear and decide variances from the terms of this title, as provided in section [10-5-22](#) of this title.
4. Determine the existence, expansion, or modification of nonconforming uses, as provided in section [10-5-19](#) of this title.

10-4-6: ZONING ADMINISTRATOR

- A. Appointment: The mayor shall designate a staff person who shall be primarily responsible for administering and enforcing this title. Such person shall be known as the zoning administrator.
- B. Interpretation: The zoning administrator shall interpret this title to the public, city departments, and to other branches of government, subject to general and specific policies established by the mayor and city council. Upon request, the zoning administrator shall make a written interpretation of the text of this title pursuant to section [10-5-20](#) of this title.
- C. Administrative Duties: The zoning administrator shall accomplish or cause to be accomplished all administrative actions required by this title, including the giving of notice, holding of hearings, preparation of staff reports, and receiving and processing of appeals.

Adopted by Ord. 2007-02 on 7/11/2007

Chapter 5: ADMINISTRATION AND PROCEDURES

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10-5-1: PURPOSE

The purpose of this chapter is to set forth procedures and standards for considering various types of land use and development applications to assure that applications of the same type will be processed on a uniform basis consistent with applicable law.

Adopted by Ord. 2007-02 on 7/11/2007

10-5-2: SCOPE

Any proposed land use or development which is subject to a procedure set forth in this chapter shall be submitted, reviewed, and acted upon as provided in this chapter.

Adopted by Ord. 2007-02 on 7/11/2007

10-5-3: COMMON PROVISIONS

The following provisions shall apply to any land use application required by this title:

- A. Approval Required: No development activity shall be undertaken unless applicable approvals and permits have been obtained as provided in this chapter. Failure to obtain such approval may be enforced as provided in [chapter 7](#) of this title.
- B. Application Forms: A land use application shall be submitted on a form provided by the zoning administrator along with the number of copies reasonably required by the zoning administrator for a particular type of application.
- C. City Initiated Applications: The planning commission or city council may initiate any action under this title without an application from a property owner. Notice, hearing and other procedural requirements of this chapter shall apply to an application initiated by the city.
- D. Development Review Sequence: No subdivision, site plan, or other development application shall be considered unless:
 - 1. The approval which is requested in the application is allowed by the zone where the subject property is located; or
 - 2. Where permitted by this title, the application is submitted simultaneously with a proposed zoning map amendment that would, if approved, allow the proposal.
- E. Accurate Information: All documents, plans, reports, studies, and information provided to the city by an applicant in accordance with the requirements of this title shall be accurate and complete.
- F. Determination Of Complete Application: After receipt of an application, the zoning administrator in a timely manner shall determine whether the application is complete as provided in this title. An application shall be deemed complete when all materials required for the application have been submitted as set forth in this title. If the application is not complete or fees have not been paid, the zoning administrator shall notify the applicant in writing and shall:
 - 1. Specify the application's deficiencies.
 - 2. State what additional items must be supplied.
 - 3. Advise the applicant no further action will be taken on the application until deficiencies are corrected.
- G. Fees: When an application is filed the applicant shall pay to the city the fee associated with such application as provided in the fee schedule adopted by the city council. Any application not accompanied by a required fee shall be returned to the applicant as incomplete.
 - 1. Fees shall be nonrefundable except as provided in subsection H of this section.
 - 2. Fees shall not be required for applications initiated by the city.

H. Withdrawal Of Application:

1. If an applicant fails to correct specified deficiencies within thirty (30) days after notification thereof the city may deem the application to be withdrawn. If the application is deemed withdrawn, the application and any associated fee shall be returned to the applicant upon request; provided, however, the city may deduct from the application fee the cost of determining completeness of the application.
2. Following submittal of a complete application, an applicant may withdraw the application at any time prior to action on the application by a land use authority or appeal authority. Application fees shall not be refundable if prior to withdrawal:
 - a. A staff review of the application has been undertaken; or
 - b. Notice for a public hearing or meeting on the application has been mailed, posted, or published.

I. Decision Date: The effective date of a decision or recommendation made under the provisions of this title shall be the date of the meeting or hearing at which the decision or recommendation is made by the decision making body or official.

J. Extensions Of Time: Unless otherwise prohibited by this title, upon written request and for good cause shown, any decision making body or official having authority to grant approval of an application may, without any notice or hearing, grant extensions of any time limit imposed by this title on such application, its approval, or the applicant. The total period of time granted by any such extension or extensions shall not exceed twice the length of the original time period.

K. Procedural Irregularities: Notwithstanding any provision of this title which sets forth a procedure for any matter herein, no action, inaction or recommendation regarding the matter which is the subject of the procedure shall be void or invalid or set aside by a court due to any error (including, but not limited to, any irregularity, informality, neglect or omission) which pertains to a petition, application, notice, finding, record, hearing, report, recommendation or any other procedural matter whatsoever unless:

1. The procedure is required by state or federal law; and
2. In an examination of the entire circumstances, including the evidence of record, the court is of the opinion that the procedural error complained of was prejudicial to a substantial right of the complainant as shown by the following:
 - a. Had the error not occurred the decision made pursuant to the procedure would have been different, and
 - b. Because of the error the complainant suffered an injury for which relief must be given.
3. The court shall presume that action taken pursuant to a procedure was done in good faith and shall not presume that an error is prejudicial or that an injury occurred. The complainant shall have the burden of the proof by a preponderance of the evidence to show that an error is prejudicial or that an injury occurred.

L. Examination And Copying Of Application And Other Documents: Upon request, and during normal business hours, any person may examine an application and materials submitted in support of or in opposition to an application. Copies of such materials shall be made available at reasonable cost.

Adopted by Ord. 2007-02 on 7/11/2007

10-5-4: PUBLIC HEARINGS AND MEETINGS

Any public hearing or meeting required under this title, as the case may be, shall be scheduled and held subject to the requirements of this section.

A. Scheduling A Public Hearing Or Meeting: A land use application requiring consideration at a public hearing or meeting shall be scheduled within a reasonable time following receipt of a complete application. The amount of time between receipt of a complete application and holding a public hearing or meeting shall be considered in light of:

1. The complexity of the application submitted;
2. The number of other applications received which require a public hearing or meeting;
3. Available staff resources; and
4. Applicable public notice requirements.

B. Applicant Notice:

1. The zoning administrator shall provide to each land use applicant:
 - a. Written notice of the date, time, and place of each public hearing and public meeting where the applicant's application will be considered.
 - b. A copy of each staff report regarding the pending application at least three (3) business days before the public hearing or public meeting.
 - c. A copy of the final decision on a pending application within ten (10) days following the decision.
2. If the zoning administrator fails to comply with the requirements of subsection B1a or B1b of this section, or both, an applicant may waive the failure so the application may stay on the public hearing or public meeting agenda and be considered as if the requirements had been met.

C. Notice Of Public Hearings And Public Meetings To Consider General Plan Or Modifications:

1. The zoning administrator shall give:
 - a. Notice of the date, time, and place of the first public hearing to consider the original adoption or any modification of all or any portion of a general plan.
 - b. Notice of each public meeting on the subject.
2. Each notice of a public hearing under subsection C1a of this section shall be at least ten (10) calendar days before the public hearing and shall be:
 - a. Published in a newspaper of general circulation in the area;
 - b. Mailed to each affected entity; and
 - c. Posted:
 - (1) In at least three (3) public locations within the city; or
 - (2) On the city's official website.
3. Each notice of a public meeting under subsection C1b of this section shall be at least twenty four (24) hours before the meeting and shall be:
 - a. Submitted to a newspaper of general circulation in the area; and
 - b. Posted:
 - (1) In at least three (3) public locations within the city; or
 - (2) On the city's official website.

D. Notice Of Public Hearings And Public Meetings On Adoption Or Modification Of Land Use Ordinance:

1. The zoning administrator shall give:
 - a. Notice of the date, time, and place of the first public hearing to consider the adoption or any modification to this title; and
 - b. Notice of each public meeting on the subject.
2. Each notice of a public hearing under subsection D1a of this section shall be:
 - a. Mailed to each affected entity at least ten (10) calendar days before the public hearing;
 - b. Posted:
 - (1) In at least three (3) public locations within the city; or
 - (2) On the city's official website; and
 - c.
 - (1) Published in a newspaper of general circulation in the area at least ten (10) calendar days before the public hearing; or
 - (2) Mailed at least three (3) days before the public hearing to:
 - (A) Each property owner whose land is directly affected by the proposed land use ordinance change; and
 - (B) Each adjacent property owner.
3. Each notice of a public meeting under subsection D1b of this section shall be at least twenty four (24) hours before the meeting and shall be posted:
 - a. In at least three (3) public locations within the city; or
 - b. On the city's official website.

E. Third Party Notice:

1. If this title requires notice to adjacent property owners, the zoning administrator shall:
 - a. Mail notice to the record owner of each lot which abuts the subject property or which is directly across a street from the property; or
 - b. Post notice on the property with a sign of sufficient size, durability, print quality, and location reasonably calculated to give notice to passersby.
2. If the city mails notice to third party property owners under subsection E1 of this section, equivalent notice shall be mailed to property owners within an adjacent jurisdiction.

F. Notice For A Proposed Subdivision Or Amendment Or A Multiple-Unit Residential Or Commercial Or Industrial Development:

1. Except for an exempt subdivision under subsection [10-5-11K](#) of this chapter, for a proposed subdivision or an amendment to a subdivision, the city shall provide notice of the date, time, and place of a public hearing that is:
 - a. Mailed not less than three (3) calendar days before the public hearing and addressed to the record owner of each lot adjacent to that property or which is directly across a street from the property; or
 - b. Posted not less than three (3) calendar days before the public hearing, on the property proposed for subdivision, in a visible location, with a sign of sufficient size, durability, and print quality that is reasonably calculated to give notice to passersby.
2. The city shall mail notice to each affected entity of a public hearing to consider a preliminary plat describing a multiple-unit residential, commercial, or industrial development.
3. The city shall provide notice as required by subsection G of this section for a subdivision that involves a vacation, alteration, or amendment of a street.

G. Hearing And Notice For Proposal To Vacate, Alter, Or Amend A Public Street Or Right Of Way: For any proposal to vacate, alter, or amend a public street or right of way, the land use authority shall hold a public hearing and shall give notice of the date, place, and time of the hearing by:

1. Mailing notice as required in subsection F of this section;
2. Mailing notice to each affected entity; and
3.
 - a. Publishing notice once a week for four (4) consecutive weeks before the hearing in a newspaper of general circulation in the city in which the land subject to the petition is located; or
 - b. If there is no newspaper of general circulation in the city, posting the property and posting notice in three (3) public places for four (4) consecutive weeks before the hearing.

H. Notice Challenge: If notice given under this section is not challenged under section 10-9a-801 of the Utah code within thirty (30) days after the meeting or action for which notice is given, the notice is considered adequate and proper.

I. Courtesy Notice Of Public Hearing Or Meeting: As a courtesy to persons who may be affected by an application, notice of a public hearing or meeting may be given as provided in this section. The city shall not be obligated to provide courtesy notice to any person. Failure of any person to receive courtesy notice shall not affect the sufficiency of required notice.

1. Courtesy notice, as determined by the zoning administrator, may be given for applications which are site specific, including general plan map amendments, zoning map amendments, conditional use permits, site plans, and variances. The zoning administrator may also direct that courtesy notice be given based on the degree of public interest in an application.
2. If given, courtesy notice shall consist of the information required in subsection C1 of this section.
3. When the zoning administrator elects to provide courtesy notice, such notice shall be provided in the following manner:
 - a. The applicant shall provide to the zoning administrator stamped envelopes for all property owners within two hundred fifty feet (250') of the boundary of the property which is the subject of the application as shown by the latest assessment rolls of the Box Elder County recorder.
 - b. The zoning administrator shall mail courtesy notice of the public hearing or meeting to property owners at least ten (10) days before the date of the hearing or meeting using the preaddressed stamped envelopes provided by the applicant.

J. Public Hearing And Meeting Procedures: An application shall be considered pursuant to applicable provisions of this chapter and under meeting procedures established by the land use authority or appeal authority for the conduct thereof.

K. Record Of Public Hearing Or Meeting:

1. Written minutes and a digital or tape recording shall be kept of all public hearings or meetings and shall include all of the following:

- a. The date, time, and place of the meeting.
 - b. The names of members present and absent.
 - c. The substance of all matters proposed, discussed, or decided, and a record, by individual member, of votes taken.
 - d. The names of all citizens who appeared and the substance in brief of their testimony.
 - e. Any other information that any member requests be entered in the minutes.
2. The minutes, tape recordings, all applications, exhibits, papers, and reports submitted in any proceeding before a land use authority or appeal authority shall constitute the record thereof. The record shall be made available for public examination as provided in subsection J of this section.

Adopted by Ord. 2007-02 on 7/11/2007

10-5-5: GENERAL DECISION MAKING STANDARDS

- A. Legislative And Administrative/Quasi-Judicial Distinction: The decision making standards set forth in this subsection are based on the fundamental distinction between legislative and administrative/quasi-judicial proceedings. Legislative proceedings establish public law and policy applicable generally, while administrative/quasi-judicial proceedings apply such law and policy to factually distinct, individual circumstances.
 1. Legislative Proceedings: The following types of applications are hereby declared to be legislative:
 - a. General plan amendments.
 - b. Zoning map amendments.
 - c. Zoning text amendments.
 - d. Temporary land use regulations.
 2. Basis For Approving Legislative Applications: Decisions regarding a legislative application shall be based on the "reasonably debatable" standard, as follows:
 - a. The land use authority shall determine what action, in its sole judgment, will reasonably promote the public interest, conserve the values of other properties, avoid incompatible development, encourage appropriate use and development, and promote the general welfare of the public.
 - b. In making such determination, the land use authority may consider the following:
 - (1) Testimony presented at a public hearing or meeting.
 - (2) Personal knowledge of various conditions and activities bearing on the issue at hand, such as, but not limited to, the location of businesses, schools, roads and traffic conditions; growth in population and housing; the capacity of utilities; the zoning of surrounding property; and the effect that a particular proposal may have on such conditions and activities, the values of other properties, and upon the general orderly development of the city.
 - c. The land use authority shall state on the record the rationale for its decision.
 3. Administrative Proceedings: The following types of applications are hereby declared to be administrative:
 - a. Subdivision approval.
 - b. Site plan review.
 - c. Conditional use permit.
 - d. Permitted use review.
 - e. Temporary use permit.
 - f. Sign permit.
 - g. Building permit review.
 - h. Nonconformity determination.
 - i. Administrative interpretation.
 4. Basis For Approving Administrative Applications: Decisions regarding an administrative application shall be based on the "substantial evidence" standard as follows:
 - a. Any administrative application for which substantial evidence in the record shows compliance with requirements applicable to the application shall be approved.
 - (1) "Substantial evidence" is that quantity and quality of relevant evidence adequate to convince a reasonable mind to support a conclusion.
 - (2) Conditions may be imposed to conform an application with applicable requirements of this title.
 - b. A decision under this subsection shall include at least the following elements:
 - (1) A statement of approval, approval with conditions, or disapproval, as the case may be.
 - (2) A summary of evidence presented which forms the basis for the decision, including specific references to applicable standards set forth in this title, other provisions of this code, or other applicable law.
 5. Quasi-Judicial Proceedings: The following types of applications are hereby declared to be quasi-judicial:
 - a. Appeal of administrative decision.
 - b. Variance.
 6. Basis For Approving Quasi-Judicial Applications: For an appeal of an administrative decision, see section [10-5-21](#) of this chapter. For a variance, see section [10-5-22](#) of this chapter.
- B. Fundamental Fairness: Consideration of any land use application shall be "fundamentally fair", which for the purpose of this title means:
 1. In any land use proceeding, notice is provided as required by this title and fair procedure is applied to the proceeding; and
 2. In a legislative proceeding, a decision by the city council advances a legitimate public purpose and could advance the public welfare.
- C. Pending Zoning Map Or Text Amendments:
 1. An applicant is entitled to approval of a land use application if the application conforms to applicable requirements of this title in effect when a complete application is submitted and all fees have been paid, unless:
 - a. The city council or planning commission finds, on the record, a compelling, countervailing public interest would be jeopardized by approving the application; or
 - b. Before a complete application is submitted, proceedings have been formally initiated to amend this title in a manner that would

prohibit approval of the application.

2. If a zoning map or text amendment which may affect an application is pending when the application is submitted, the applicant shall not be entitled to rely on such provisions but may be required to comply with newly enacted provisions, as set forth below.

- a. A proposed amendment shall be deemed "pending" when the amendment proposal first appears on a duly noticed planning commission or city council agenda, as the case may be.
- b. An application affected by a pending amendment shall be subject to the following requirements:

- (1) The application shall not be acted upon until six (6) months from the date when the pending amendment was first noticed on a planning commission or city council agenda unless:

- (A) The applicant voluntarily agrees to amend his application to conform to the requirements of the proposed amendment; or
- (B) The proposed amendment is sooner enacted or defeated, as the case may be.

- (2) If a pending amendment is enacted within six (6) months after being noticed on a planning commission or city council agenda, an affected application which was filed while the amendment was pending shall conform to the enacted amendment.

- c. If a pending amendment to this title is not enacted within one hundred eighty (180) days since the proceedings were initiated and the proceedings have not resulted in an enactment that prohibits approval of the application as submitted, the application shall be processed without regard to the proposed amendment.

D. Permit Requirements: No requirement may be imposed on a permit holder unless the requirement is expressed in the land use permit or documents on which the land use permit is based, this chapter, or this code.

E. Certificates Of Occupancy: Issuance of a certificate of occupancy may not be withheld because an applicant fails to comply with a requirement that is not expressed in the building permit or in documents on which the building permit is based, this title, or this code.

F. Exactions:

1. An exaction may be imposed on development proposed in a land use application if:
 - a. An essential link exists between a legitimate governmental interest and each exaction; and
 - b. Each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.
2. If the city plans to dispose of surplus real property that was acquired under this section and has been owned by the city for less than five (5) years, the city shall first offer to reconvey the property, without receiving additional consideration, to the person who granted the property to the city.
 - a. A person to whom the city offers to reconvey property under this subsection F2 has ninety (90) days to accept or reject the city's offer.
 - b. If a person to whom the city offers to reconvey property declines the offer, the city may offer the property for sale.
 - c. This subsection F2 does not apply to the disposal of property acquired by exaction by a community development or urban renewal agency.

G. Vested Rights: Except as otherwise provided in this subsection, a person who submits a complete application pursuant to the provisions of this title is entitled to have such application considered on the basis of provisions in effect when the application is submitted.

1. If within one year after a complete application has been submitted the applicant has not taken substantial action to pursue approval of the application, the application shall expire and any vested rights thereunder shall terminate.
2. An applicant who has obtained vested rights under this title shall proceed with reasonable diligence to exercise development rights authorized by an approved application. Failure to take substantial action on an approved application prior to the expiration date of such application, as set forth in this title, shall terminate vested rights associated with the application.
3. An applicant with vested rights shall continually conform to all conditions of approval of an application. An applicant's failure to do so shall constitute the applicant's knowing and wilful waiver of the applicant's vested rights under the application.
4. An application approved pursuant to this title only authorizes the thing applied for in the application.
5. Vested rights may be voided if the city council finds, on the record, a compelling, countervailing public interest reason to do so.

Adopted by Ord. 2007-02 on 7/11/2007

10-5-6: GENERAL PLAN AMENDMENT

The general plan and any of its elements may be amended as provided in subsection [10-2-2C](#) of this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-5-7: ZONING MAP AND TEXT AMENDMENTS

- A. Purpose: This section sets forth procedures for amending the provisions of this title and the zoning map.
- B. Authority: The city council may from time to time amend the text of this title and the zoning map as provided in this section. Amendments may include changes in the number, shape, boundaries, or area of any zone, zone regulations or any other provision of this title. The provisions set forth herein shall not apply to the enactment of temporary zoning regulations.
- C. Initiation: Proposed amendments to the text of this title and the zoning map may be initiated by the city council, planning commission or a property owner affected by a proposed amendment as provided in subsection D1 of this section.
- D. Procedure: Zoning text and map amendments shall be considered and processed as provided in this subsection.

1. An application shall be submitted to the zoning administrator in a form established by the administrator along with any fee established by the city's schedule of fees. The application shall include at least the following information:

- a. The name, address and telephone number of the applicant and the applicant's agent, if any.
- b. The name and address of every person or business entity the applicant represents.
- c. The requested amendment and reasons supporting the request.
- d. If the proposed amendment requires a change in the zoning map, the application shall include:

- (1) An accurate property map showing present and proposed zoning classifications.
- (2) All abutting properties showing present zoning classifications.
- (3) An accurate legal description and an approximate common address of the area proposed to be rezoned.

- e. If the proposed amendment requires a change in the text of this title, the application shall include chapter and section references and a draft of the proposed text.

2. After an application is determined to be complete, the zoning administrator shall provide notice as required in section [10-5-4](#) of this chapter and shall schedule the application for consideration by the planning commission.
 3. The planning commission shall review the application, hold a public hearing, and thereafter submit to the city council a recommendation for approval, approval with modifications, or denial of the application.
 4. Following receipt of a recommendation from the planning commission, the city council shall consider the application and shall approve, approve with modifications, or deny the proposed amendment.
- E. Approval Standards: A decision to amend the zoning map or the text of this title is a matter within the legislative discretion of the city council as described in subsection [10-5-5A2](#) of this chapter. In determining whether to enact an amendment, the following factors should be considered:
1. Consistency with the goals, objectives and policies of the city's general plan.
 2. Compatibility with the overall character of existing development in the vicinity of the subject property.
 3. Effect on immediately adjacent property.
 4. Adequacy of facilities and services intended to serve the subject property, including, but not limited to, roadways, parks and recreation facilities, police and fire protection, schools, stormwater drainage systems, water supplies, and wastewater and refuse collection.
- F. Appeal Of Decision: Any party adversely affected by a decision of the city council to amend the zoning map or the text of this title may, within thirty (30) days after such decision, appeal to the district court as provided in section 10-9a-801 of the Utah code, as amended.
- G. Effect Of Approval: Approval of an application to amend the zoning map or the provisions of this title shall not be deemed an approval of a conditional use permit, site plan, or other permit. Approval of such permits shall be obtained in accordance with applicable provisions of this title.
- H. Effect Of Disapproval: City council denial of an application to amend the zoning map or the provisions of this title shall preclude the filing of another application covering substantially the same subject or property, or any portion thereof, for one year from the date of the disapproval, except as follows:
1. Another application may be sooner considered if:
 - a. The planning commission determines a substantial change in circumstances has occurred to merit consideration of the application; or
 - b. The application is for a change to a different zone.
 2. The city council or planning commission may propose any text or zoning map amendment at any time.

Adopted by Ord. 2007-02 on 7/11/2007

10-5-8: TEMPORARY LAND USE REGULATIONS

- A. Authorized: The city council may, without prior consideration of or recommendation from the planning commission, enact an ordinance establishing a temporary land use regulation for any part or all of the area within the city if the council makes a finding of compelling, countervailing public interest; or the area is unregulated.
1. A temporary land use regulation may prohibit or regulate the erection, construction, reconstruction, or alteration of any building or structure or any subdivision approval.
 2. A temporary land use regulation may not impose an impact fee or other financial requirement on building or development.
 3. The duration of a temporary land use regulation shall not exceed six (6) months.
- B. Highway Or Transportation Corridor: The city council may, without prior planning commission consideration or recommendation, enact an ordinance establishing a temporary land use regulation prohibiting construction, subdivision approval, and other development activities within an area that is the subject of an environmental impact statement or a major investment study examining the area as a proposed highway or transportation corridor.
1. A regulation under this subsection B:
 - a. May not exceed six (6) months in duration.
 - b. May be renewed, if requested by the Utah transportation commission created under section 72-1-301 of the Utah code for up to two (2) additional six (6) month periods by ordinance enacted before the expiration of the previous temporary land use regulation; and
 2. Notwithstanding subsection B1 of this section, is effective only as long as the environmental impact statement or major investment study is in progress.

Adopted by Ord. 2007-02 on 7/11/2007

10-5-9: SUBDIVISION CONCEPT PLAN

- A. Purpose: This section sets forth procedures for considering and approving a subdivision concept plan. The purpose of a concept plan is to allow an applicant to determine the feasibility of a particular subdivision proposal without incurring the expense of preparing a preliminary plat.
- B. Authority: The planning commission is authorized to approve subdivision concept plans as provided in this section.
- C. Initiation: A property owner, or the owner's agent, may request approval of a concept plan as provided in subsection D of this section.
- D. Procedure: An application for concept plan approval shall be considered and processed as provided in this subsection.
1. A complete application shall be submitted to the zoning administrator in a form established by the administrator along with any fee established by the city's schedule of fees.
 2. A concept plan application shall include at least the following information:
 - a. The name, address and telephone number of the applicant and the applicant's agent, if any.
 - b. The name of the proposed subdivision.
 - c. The name and business address of the project designer and engineer.
 - d. The dimensions, area and general location of the site.
 - e. North point or arrow, pointing to the left or top of sheet.
 - f. Locations of existing buildings.
 - g. Locations and names of existing streets and general location of proposed streets.
 - h. Public and private easements related to site.
 - i. Approximate section corners or lines.
 - j. Watercourses and impoundments.
 - k. Location and description of existing vegetation.
 - l. Stormwater disposal facilities; location and size of utility service (water, sewer, power, gas, telephone cable) lines; location and type of proposed sewage disposal facilities; type of water system proposed; location of all other proposed on site and off site improvements.
 - m. Topographic contours at two foot (2') increments from existing data such as USGS quads and identifying areas greater than fifteen

- percent (15%).
- n. Soils and geologic map indicating soils types, their boundaries and any known geologic hazards such as fault zones, unstable soils, etc.
- o. Vicinity map.
- p. Name and address of property owners within three hundred feet (300') of proposed subdivision.
- q. Adjacent properties and names of owners.
- r. Existing zoning.

E. Approval Standards: The planning commission shall approve a concept plan if the commission finds:

1. The design of the concept plan will conform to:
 - a. Applicable policies of the Honeyville general plan and master street plan.
 - b. Development standards of the applicable zone.
 - c. Applicable regulations of general applicability and regulations for specific uses set forth in this title.
 - d. Any other applicable requirements of this code.
2. Public facilities are or will be readily available to serve the proposed development.
3. The planning commission may impose conditions as necessary to achieve compliance with applicable general plan and city code requirements.

F. Appeal Of Decision: Any person adversely affected by a final decision of the planning commission regarding a concept plan approval may appeal to the board of appeals in accordance with the provisions of section [10-5-21](#) of this chapter.

G. Effect Of Approval: Approval of a concept plan shall authorize an applicant to apply for preliminary plat approval.

H. Amendments: The procedure for amending a concept plan shall be the same as the original procedure set forth in this section.

I. Revocation: A concept plan may be revoked as provided in section [10-7-6](#) of this title.

J. Expiration: A concept plan approval shall expire and have no further force or effect if a complete application for a preliminary plat is not submitted to the zoning administrator within one year following approval.

Adopted by Ord. 2007-02 on 7/11/2007

10-5-10: PRELIMINARY PLAT

A. Purpose: This section sets forth procedures for considering and approving a preliminary subdivision plat.

B. Authority: The planning commission is authorized to approve preliminary subdivision plats as provided in this section.

C. Initiation: A property owner, or the owner's agent, may request approval of a preliminary plat as provided in subsection D of this section.

D. Procedure: An application for preliminary plat approval shall be considered and processed as provided in this subsection.

1. A complete application shall be submitted to the zoning administrator in a form established by the administrator along with any fee established by the city's schedule of fees.
2. A preliminary plat application shall include at least the following information:
 - a. The name, address and telephone number of the applicant and the applicant's agent, if any, the engineer or surveyor of the subdivision, and the owners of the land immediately adjoining the land to be subdivided.
 - b. Proposed changes to existing zoning, if any.
 - c. The proposed name of the subdivision.
 - d. Where the plat submitted covers only a part of the developer's land, or is part of a larger vacant area, the plat shall show the location of the subdivision as it forms part of a larger tract or parcel. In such case, a sketch of the prospective future street system of the unplanned parts shall be submitted and the street system of the part submitted shall be considered in the light of adjustments and connections with the future street system of the larger area.
 - e. Sufficient information to locate accurately the property shown on the plat.
 - f. A boundary traverse map of the perimeter of the proposed subdivision. The surveying shall have an error of closure of not greater than one part in ten thousand (10,000). The boundary survey and traverse shall be certified by a land surveyor, registered to practice in the state of Utah.
 - g. A vicinity map, drawn at a scale not less than one inch equals two thousand feet (1" = 2,000'), showing the perimeter of the plat, access points, abutting subdivision outlines and names, and other relevant information within one-half (0.5) mile of the perimeter of the proposed plat.
 - h. Existing conditions:
 - (1) Location of existing on site wastewater disposal systems, sanitary sewer systems, storm drains, water supply mains, culinary or secondary water sources, storage facilities, water treatment facilities, and culverts within the tract or within five hundred feet (500') thereof.
 - (2) Location, width, and other dimensions of proposed lots, streets, alleys, easements, parks and other open spaces with proper labeling of spaces to be dedicated to the public.
 - (3) Location, principal dimension, and names of all existing or recorded streets, alleys, and easements, both within the proposed subdivision and within five hundred feet (500') of the boundary thereof, showing whether recorded or claimed by usage; the location and principal dimensions for all watercourses, including ditches, canals, and natural drainage channels, public utilities, and existing structures within the land and adjacent to the tract to be subdivided, including railroads, and exceptional topography.
 - (4) Location of existing bridges, culverts, surface, or subsurface drainageways, areas subject to occasional flooding, marshy areas, swamps, utilities, buildings, pumping stations or appurtenances within the subdivision or within five hundred feet (500') thereof.
 - (5) Location of the nearest elevation bench mark and survey control monument.
 - (6) Landowners immediately adjoining the land to be subdivided and the boundary lines of adjacent tracts of unsubdivided land, showing ownership and property monuments.
 - (7) Existing contours at two foot (2') intervals for predominant ground slopes within the tract between level and five percent (5%) grade and five foot (5') contours for predominant ground slopes within the tract over five percent (5%) grade. Elevations shall be based on national geodetic survey sea level data. In cases of level topography through a subdivision, one foot (1') contours may be required.
 - (8) Copies of any agreements with adjacent property owners relevant to the proposed subdivision and the substance of all other covenants, grants of easements or restrictions to be imposed upon the use of the land, buildings and structures.
 - i. Proposed development:
 - (1) Lot and street layout.

- (2) Dimension of all lots to nearest foot (which may be scaled values).
 - (3) Total acreage of entire proposed subdivision.
 - (4) Lots and blocks numbered consecutively.
 - (5) Locations and identification of all existing and proposed public and private easements.
 - (6) Existing and proposed street names.
 - (7) Street plans to show proposed grades, curb-gutter and sidewalks.
 - (8) Typical street cross sections.
 - (9) Proposed water facilities, including pipe diameters, valve locations, fire hydrant locations, water sources, water rights, reservoirs, pumps and design calculations.
 - (10) Excavation or grading of areas requiring in excess of three foot (3') cuts or fills.
 - (11) A site plan showing proposed dwelling locations and driveway locations for each lot where sensitive or special topographical and geologic conditions exist. The planning commission may determine, after review of the concept plan, that lot site plans are required because existing conditions merit more specific details or requirements for developing specific lots.
 - (12) Proposed storm sewer systems indicating pipe diameters, location of detention ponds, manholes, inlets and other pertinent appurtenances with the design calculations.
 - (13) Proposed on site wastewater facilities, including dimensioned locations of septic tanks, pump facilities and wastewater drain fields.
 - (14) Approximate boundaries of areas subject to inundation or stormwater overflows or floods of an intensity estimated to occur with a return frequency of once every one hundred (100) years.
 - j. The plat shall be drawn to a scale not less than one inch equals one hundred feet (1" = 100'), and shall indicate the basis of bearings, true north point, name of subdivision, name of city, township, range, section and quarter section, block and lot number of the property under consideration.
 - k. An affidavit that the applicant is the owner, the equitable owner or authorized by the owner in writing to make application for the proposed subdivision.
 - l. Sites, if any, to be reserved or dedicated for parks, playgrounds, schools or other public uses.
 - m. Sites, if any, for multi-family dwelling, shopping center, city facilities, industry or other uses, exclusive of single-family dwellings.
 - n. Proposed phases of development. All development and improvements to be continuous and contiguous to abutting developments.
 - o. If required by the city engineer, a statement analyzing the environmental impact of the proposed subdivision prepared in accordance with generally recognized standards, as determined by the engineer.
3. Where it is determined by the planning commission, after review of the concept plan, that one or more of the following requirements is not applicable to the subdivision under consideration, such requirements may be waived. Such waiver of requirement shall be made in writing with findings of fact substantiating the inapplicability of said requirements.
- a. A minimum of ten (10) copies of the preliminary plan and one reproducible vellum or Mylar of each sheet comprising the preliminary plan. One additional print is required when the property being subdivided abuts a state highway.
 - b. If services are to be provided by an entity other than the city, a letter from the entity shall be submitted stating the entity has the capacity to provide the required service and including conditions upon which the service will be provided.
 - c. A letter from each utility company involved addressed to the planning commission, stating that the company has reviewed the plat and setting forth their comments concerning the extent of services and the design of utility easements. The plat as approved by the utility company shall be initialed by an official of the company and furnished to the planning commission.
 - d. Statement of the estimated starting and completion dates for each phase of development, including the grading work proposed and any landscape work that may be required.
 - e. A certificate of title insurance for land to be dedicated to the city.
 - f. Trust agreement for perpetual care funds, if applicable.
 - g. A copy of proposed protective covenants, articles of incorporation, association or condominium regulations, bonds and guarantees, if applicable.
 - h. Appropriate supporting documents showing potable water will be available to the developer in the quantities required by local or state codes.
 - i. Where applicable, supporting documents showing the Bear River health department has approved the subdivision and all lots contained therein for on site wastewater disposal systems.
 - j. Estimated construction cost and proposed method of financing all improvements, including streets and related facilities; water facilities; sewage facilities; storm drainage facilities; electrical distribution system; and all such other utilities as may be necessary.
 - k. Evidence that the applicant has sufficient financial capability and adequate control over the land to complete the proposed subdivision.
 - l. Fiscal impact study, if required by the planning commission.
 - m. Names and addresses of owners within three hundred feet (300') of the subdivision.
 - n. Soils report prepared by a registered civil engineer, soil engineer or engineering geologist, that certifies to the types of soils, the geologic hazards, development restrictions and suitability of the area for subdivision development.
4. The planning commission shall determine from the review of the preliminary plan the need for an environmental impact analysis, which takes into account the soil, slope, vegetation, drainage and other geological characteristics of the site.
- a. If development of the subdivision site requires substantial cutting, clearing, grading or other earthmoving operations or will otherwise create, augment, or expand an erosion or other geologic hazard, the planning commission shall require the developer to provide soil erosion, geological hazard, and sedimentation control plans and specifications.
 - b. Such control plans and specifications shall be prepared by a qualified professional engineer with the cost of preparation of such plans and specifications being borne by the subdivider.
5. After an application is determined to be complete, the zoning administrator shall schedule a public meeting before the planning commission as provided in section [10-5-4](#) of this chapter.
- a. A staff report evaluating the application may be prepared by the zoning administrator.
 - b. The planning commission may call a public hearing if the commission determines a hearing is in the public interest.
6. The planning commission shall hold a public meeting or hearing, as the case may be, and thereafter shall approve, approve with conditions, or deny the application pursuant to the standards set forth in subsection E of this section. Any conditions of approval shall be limited to conditions needed to conform the preliminary plat to approval standards.
7. After the planning commission makes a final decision, the zoning administrator shall give the applicant written notice of the decision within ten (10) days.
8. A record of all conditional use permits shall be maintained in the office of the zoning administrator.

E. Approval Standards:

1. The planning commission shall approve a preliminary plan which the commission finds:
 - a. To be developed in accordance with the intent, standards and criteria specified in this title, the master street plan, the master plan and all other applicable local regulations.
 - b. To be in conformance with the approved concept plan.
 - c. That the development will not create a financial obligation for the city.
 - d. That the development will not create an environmental impact which will adversely affect the health, safety and welfare of the inhabitants of the city.
 2. When the general plan indicates a public facility or facilities are to be located within the boundaries of a proposed subdivision, the developer shall reserve a site appropriate in area and location for such public facility. Such site shall be reserved by the developer for a period of not to exceed one year from the date of preliminary plan approval to provide the appropriate public agency an opportunity to purchase the site. A determination by the planning commission to require such a reservation by a developer shall be made in writing and shall state the reasons for such requirements.
- F. Appeal Of Decision: Any person adversely affected by a final decision of the planning commission regarding a preliminary plat approval may appeal to the board of appeals in accordance with the provisions of section [10-5-21](#) of this chapter.
- G. Effect Of Approval: Approval of a preliminary plat shall authorize an applicant to apply for final plat approval.
- H. Amendments: The procedure for amending a preliminary plat shall be the same as the original procedure set forth in this section.
- I. Revocation: A preliminary plat may be revoked as provided in section [10-7-6](#) of this title.
1. In addition to the grounds set forth in section [10-7-5](#) of this title, a preliminary plat may be revoked if the holder of the approval:
 - a. Fails to comply with the conditions of approval or any applicable city, state, or federal law.
 - b. Sells or transfers any of the subject land to a third party prior to approval of a final plat for such land.
 2. No approved preliminary plat may be revoked against the wishes of the holder of the approval without first giving such person an opportunity to appear before the city council and show cause as to why the approval should not be amended or revoked. Revocation of an approved preliminary plat shall not limit the city's ability to initiate or complete other legal proceedings against the holder of the approval.
- J. Expiration: A preliminary plat approval shall expire and have no further force or effect if a complete application for a final plat is not submitted to the zoning administrator within one year following approval.

Adopted by Ord. 2007-02 on 7/11/2007

10-5-11: FINAL PLAT

- A. Purpose: This section sets forth procedures for considering and approving a final subdivision plat.
- B. Authority: The city council is authorized to approve final subdivision plats as provided in this section after receiving a recommendation from the planning commission.
- C. Initiation: A property owner, or the owner's agent, may request approval of a final plat as provided in subsection D of this section.
- D. Procedure: An application for final plat approval shall be considered and processed as provided in this subsection.
1. A complete application shall be submitted to the zoning administrator in a form established by the administrator along with any fee established by the city's schedule of fees.
 2. A final plat application shall include at least the following information:
 - a. The name, address and telephone number of the applicant and the applicant's agent, if any.
 - b. Improvement drawings and information which conform to section [10-31-3](#) of this title and other applicable requirements of chapter 31 of this title.
 3. After the application is determined to be complete, the zoning administrator shall schedule a public meeting before the planning commission as provided in section [10-5-4](#) of this chapter. A staff report evaluating the application may be prepared by the zoning administrator.
 4. The planning commission shall hold a public meeting and thereafter shall either approve or deny the application pursuant to the standards set forth in subsection E of this section. Conditional approval shall not be given.
 5. The city council shall hold a public meeting to consider the planning commission recommendation and thereafter shall approve, approve with conditions, or deny the application pursuant to the standards set forth in subsection E of this section. Any conditions of approval shall be limited to conditions needed to conform the final plat to approval standards.
 6. After the city council makes a final decision, the zoning administrator shall give the applicant written notice of the decision within ten (10) days.
 7. A record of all final plat approvals shall be maintained in the office of the zoning administrator.

E. Approval Standards:

1. A final plat shall be approved if the plat:
 - a. Covers all or part of land which has received preliminary plat approval.
 - b. Conforms to the conditions of preliminary plat approval.
 - c. Has been approved by the culinary water authority and the sanitary sewer authority.
 - d. Conforms to the provisions of this subsection E.
2. The city may withhold an otherwise valid plat approval until the landowner provides the city council with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.
3. The landowner shall acknowledge the plat before an officer authorized by law to take the acknowledgment of conveyances of real estate and shall obtain the following signatures on the plat:
 - a. City engineer's approval. Approval shall be given if the engineer finds the subdivision and proposed improvements comply with the minimum requirements of the applicable ordinances, that the survey description is correct, and that the easements are appropriately located.
 - b. City attorney's approval. Approval shall be given if the attorney finds that:
 - (1) There is a current title opinion from a licensed title company showing that the person dedicating the property described on the final plat is the title owner as shown on the records of the Box Elder County recorder.
 - (2) The bond, escrow, letter of credit, trust deed or the agreement deposited with the city recorder is in appropriate form and signed by the necessary parties.
 - (3) The developer has executed an agreement signed by the property owners adjacent to a protection strip in a form sufficient

- for recordation in the office of the Box Elder County recorder.
- (4) The developer has executed a subdivision agreement as required by applicable provisions of this title.
- (5) The subdivision does not violate any city ordinance, or laws or regulations of the state of Utah.
- c. Surveyor's certificate.
- d. Owner's dedication.
- e. Owner's acknowledgment of responsibility.
- f. Notary and/or corporate acknowledgments.
- g. District sanitarian's approval (required only if development is not to be served by public water and sewer systems).
- 4. The surveyor making the plat shall certify that the surveyor:
 - a. Holds a license in accordance with the professional engineers and professional land surveyors licensing act, title 58, chapter 22 of the Utah code.
 - b. Has completed a survey of the property described on the plat in accordance with section 17-23-17 of the Utah code and has verified all measurements.
 - c. Has placed monuments as represented on the plat.
- 5.
 - a. As applicable, the owner or operator of the underground and utility facilities shall approve the:
 - (1) Boundary, course, dimensions, and intended use of the right of way and easement grants of record.
 - (2) Location of existing underground and utility facilities.
 - (3) Conditions or restrictions governing the location of the facilities within a right of way, and easement grants of records, and utility facilities within the subdivision.
 - b. Approval of an owner or operator under subsection E5a of this section:
 - (1) Indicates only that the plat approximates the location of the existing underground and utility facilities but does not warrant or verify their precise location.
 - (2) Does not affect a right that the owner or operator has under:
 - (A) Damage to underground utility facilities, title 54, chapter 8a of the Utah code.
 - (B) A recorded easement or right of way.
 - (C) The law applicable to prescriptive rights.
 - (D) Any other provision of law.
- 6.
 - a. After the plat has been acknowledged, certified, and approved, the landowner shall within thirty (30) days record the plat in the Box Elder County recorder's office.
 - b. An owner's failure to record a plat within thirty (30) days renders the plat voidable.
- F. Appeal Of Decision: Any person adversely affected by a final decision of the city council regarding a final subdivision plat may, within thirty (30) days after such decision, appeal to the district court as provided in section 10-9a-801 of the Utah code, as amended.
- G. Effect Of Approval: Approval of a final plat shall authorize an applicant to treat each lot shown on the plat as a legally independent parcel of property subject to any conditions of plat approval.
 - 1. A person may not submit a subdivision plat to the Box Elder County recorder's office for recording unless:
 - a. A recommendation has been received from the planning commission.
 - b. The plat has been approved as provided in subsection E of this section.
 - 2. A subdivision plat recorded without the signatures required under this section is void.
 - 3. A transfer of land pursuant to a void plat is voidable.
 - 4. Approval of a final plat shall not be deemed approval of a conditional use permit, site plan, or other permit. Approval of such permits shall be obtained in accordance with applicable provisions of this title.
- H. Amendments: The procedure for amending a final plat is set forth in section [10-5-12](#) of this chapter.
- I. Revocation: An approved final plat may be revoked as provided in section [10-7-6](#) of this title, but only prior to recording of the plat in the Box Elder County recorder's office. Following recording a plat may be vacated or amended as provided in section [10-5-12](#) of this chapter.
 - 1. In addition to the grounds set forth in section [10-7-5](#) of this title, a final plat may be revoked if the holder of the approval:
 - a. Fails to comply with the conditions of approval or any applicable city, state, or federal law.
 - b. Sells or transfers to a third party any of the land subject to a final plat prior to recording of the plat.
 - 2. No approved final plat may be revoked against the wishes of the holder of the approval without first giving such person an opportunity to appear before the city council and show cause as to why the approval should not be amended or revoked. Revocation of an approved final plat shall not limit the city's ability to initiate or complete other legal proceedings against the holder of the approval.
- J. Expiration: A final plat approval shall expire and have no further force or effect if the plat is not recorded in the Box Elder County recorder's office within ninety (90) days following approval.
- K. Exemptions From Plat Requirement:
 - 1.
 - a. A lot resulting from a division of agricultural land is exempt from the plat requirements of this section if the lot:
 - (1) Qualifies as land in agricultural use under section 59-2-502 of the Utah code.
 - (2) Meets the applicable minimum lot size requirement of this title.
 - (3) Is not used and will not be used for any nonagricultural purpose.
 - b. If a lot exempted under this subsection K1 is used for a nonagricultural purpose, the lot shall be subdivided as provided in this section.
 - 2.
 - a. Documents recorded in the Box Elder County recorder's office that divide property by a metes and bounds description do not create an approved subdivision unless the city council's certificate of written approval required by subsection K2c of this section is attached to the document.

- b. The absence of the certificates or written approvals required by subsection E3 of this section does not affect the validity of a recorded document.
 - c. A document which does not meet the requirements of subsection K1 of this section may be corrected by the recording of an affidavit to which the required certificate of written approval is attached in accordance with section 57-3-106 of the Utah code.
- L. Common Or Community Area Parcels On A Plat: A lot designated as common or community area on a plat recorded in compliance with this section may not be separately owned or conveyed independent of the other lots created by the plat. The ownership interest in such lot shall for purposes of assessment, be divided equally among all lots created by the plat, unless a different division of interest for assessment purposes is indicated on the plat or an accompanying recorded document; and shall be considered to be included in the description of each instrument describing a lot on the plat by its identifying plat number, even if the common or community area interest is not explicitly stated in the instrument.
- M. Dedication Of Streets And Other Public Places: Plats, when made, acknowledged, and recorded according to the procedures specified in this section, operate as a dedication of all streets and other public places, and vest the fee of those parcels of land in the city for the public for the uses named or intended in those plats. The dedication established by this subsection does not impose liability upon the city for streets and other public places that are dedicated in this manner but are unimproved.

Adopted by Ord. 2007-02 on 7/11/2007

10-5-12: VACATING OR AMENDING A PLAT OR STREET

- A. Vacating Or Changing A Subdivision Plat: Subject to subsection C of this section, and provided that notice has been given pursuant to section [10-5-4](#) of this chapter, the city council may, with or without a petition, consider, and resolve any proposed vacation, alteration, or amendment of a subdivision plat, any portion of a subdivision plat, or any lot contained in a subdivision plat.
1. If a petition is filed with the zoning administrator, the city council shall hold a public hearing within forty five (45) days thereafter or, if applicable, within forty five (45) days after receipt of the planning commission's recommendation under subsection A2 of this section, if:
 - a. Any owner within the plat notifies the zoning administrator of their objection in writing within ten (10) days of mailed notification; or
 - b. A public hearing is required because all of the owners in the subdivision have not signed the revised plat.
 2. The planning commission shall consider and provide a recommendation for a proposed vacation, alteration, or amendment under subsection A1 of this section before the city council takes final action. Such recommendation shall be given within thirty (30) days after the proposed vacation, alteration, or amendment is referred to the commission, or as that time period is extended by agreement with the petitioner.
 3. The public hearing requirement of subsection A1 of this section does not apply and the city council may consider at a public meeting an owner's petition to alter a subdivision plat if:
 - a. The petition seeks to join two (2) or more of an owner's contiguous, residential lots.
 - b. Notice has been given pursuant to section [10-5-4](#) of this chapter.
 4. Each request to vacate or alter a street or alley, contained in a petition to vacate, alter, or amend a subdivision plat, is also subject to section 10-9a-609.5 of the Utah code.
 5. Any fee owner, as shown on the last county assessment rolls, of land within the subdivision that has been laid out and platted as provided in this title may, in writing, petition to have the plat, any portion of it, or any street or lot contained in it, vacated, altered, or amended as provided in this section.
 6. Each petition to vacate, alter, or amend an entire plat, a portion of a plat, or a street or lot contained in a plat shall include:
 - a. The name and address of all owners of record of the land contained in the entire plat.
 - b. The name and address of all owners of record of land adjacent to any street that is proposed to be vacated, altered, or amended.
 - c. The signature of each of these owners who consents to the petition.
 7.
 - a. The owners of record of adjacent parcels that are described by either a metes and bounds description or a recorded plat may exchange title to portions of those parcels if the exchange of title is approved by the city council in accordance with subsection A7b of this section.
 - b. The city council shall approve an exchange of title under subsection A7a of this section if the exchange of title will not result in a violation of a provision of this title.
 - c. If an exchange of title is approved under subsection A7b of this section:
 - (1) A notice of approval shall be recorded in the office of the county recorder which:
 - (A) Is executed by each owner included in the exchange and by the land use authority.
 - (B) Contains an acknowledgment for each party executing the notice in accordance with the provisions of recognition of acknowledgments act, title 57, chapter 2a of the Utah code.
 - (C) Recites the descriptions of both the original parcels and the parcels created by the exchange of title.
 - (2) A conveyance of title reflecting the approved change shall be recorded in the office of the Box Elder County recorder.
 - d. A notice of approval recorded under this subsection A7 does not act as a conveyance of title to real property and is not required for the recording of a document purporting to convey title to real property.
 8.
 - a. The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section and subject to subsection A8c of this section.
 - b. The surveyor preparing the amended plat shall certify that the surveyor:
 - (1) Holds a license in accordance with the professional engineers and professional land surveyors licensing act, title 58, chapter 22 of the Utah code.
 - (2) Has completed a survey of the property described on the plat in accordance with section 17-23-17 of the Utah code and has verified all measurements.
 - (3) Has placed monuments as represented on the plat.
 - c. An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision in a plat already recorded in the county recorder's office.
 - d. Except as provided in subsection A8a of this section, recording of a declaration or other document that purports to change the name of a recorded plat is voidable.

- B. Consideration Of Petition To Vacate Or Change A Plat: If the city council is satisfied that neither the public interest nor any person will be materially injured by the proposed vacation, alteration, or amendment, and that there is good cause for the vacation, alteration, or amendment, the council may vacate, alter, or amend the plat or any portion of the plat, subject to subsection C of this section.
1. Following action by the city council to approve the vacation, alteration, or amendment the mayor shall sign an amended plat showing the vacation, alteration, or amendment.
 2. The city council shall ensure that the amended plat showing the vacation, alteration, or amendment is recorded in the office of the Box Elder County recorder.
 3. If an entire subdivision is vacated, the city council shall ensure that a council resolution containing a legal description of the entire vacated subdivision is recorded in the Box Elder County recorder's office.
- C. Vacating Or Altering A Street Or Alley: If a petition is submitted containing a request to vacate or alter any portion of a street or alley within a subdivision:
1. The planning commission shall, after providing notice pursuant to section [10-5-4](#) of this chapter, make a recommendation to the city council concerning the request to vacate or alter.
 2. The city council shall hold a public hearing in accordance with section [10-5-4](#) of this chapter to determine whether good cause exists for the vacation or alteration.
 3. If the city council vacates or alters any portion of a street or alley, the council shall ensure that the plat is recorded in the office of the Box Elder County recorder.
 4. The action of city council vacating or narrowing a street or alley that has been dedicated to public use shall operate to the extent to which it is vacated or narrowed, upon the effective date of the vacating plat, as a revocation of the acceptance thereof, and the relinquishment of the city's fee therein, but the right of way and easements therein, if any, of any lot owner and the franchise rights of any public utility may not be impaired thereby.

Amended by Ord. 2007-02 on 7/11/2007

10-5-13: SITE PLAN APPROVAL

- A. Purpose: This section sets forth procedures for considering and approving a site plan. These procedures are established to encourage adequate advance planning and assure a good quality environment for the city. Such procedure is intended to provide for orderly, harmonious, safe, and functionally efficient development consistent with priorities, values, and guidelines stated in the various elements of the Honeyville City general plan, this title and the general welfare of the community.
- B. Authority: The city council is authorized to approve site plans as provided in this section after receiving a recommendation from the planning commission.
- C. Initiation: A property owner, or the owner's agent, may request approval of a site plan as provided in subsection D of this section.
1. A site plan shall be required for any of the following uses unless expressly exempted from such requirement by another provision of this title:
 - a. Any multiple-family residential use.
 - b. Any public or civic use.
 - c. Any commercial use.
 - d. Any industrial use.
 2. When site plan approval is required, no building permit for the construction of any building, structure, or other improvement to the site shall be issued prior to approval of a site plan. No clearing, grubbing, grading, drainage work, parking lot construction or other site improvement shall be undertaken prior to site plan approval.
- D. Procedure: An application for site plan approval shall be considered and processed as provided in this subsection.
1. A complete application shall be submitted to the zoning administrator in a form established by the administrator along with any fee established by the city's schedule of fees.
 2. A site plan application shall include at least the following information:
 - a. The name, address and telephone number of the applicant and the applicant's agent, if any.
 - b. The uses for which site plan approval is requested.
 - c. A set of development plans showing the information required in subsections D2c(1) to D2c(5) of this section. The information required by each subsection shall be shown on separate sheets. Plans shall be drawn at a scale no smaller than one inch equals one hundred feet (1" = 100'). Except for the landscaping plan, the plans shall be prepared, stamped and signed by a professional engineer licensed by the state of Utah. The zoning administrator shall reasonably determine the number of sets of plans required to undertake the review required by this section. One set of plans, reduced to fit on eleven by seventeen inch (11 x 17") paper, shall be provided.
 - (1) Site plan showing the following:
 - (A) All facilities related to the project located within two hundred fifty feet (250') of the site boundary.
 - (B) Layout, dimensions, and names of existing and future road rights of way.
 - (C) Project name, north arrow, and tie to a section monument.
 - (D) The boundary lines of the project site with bearings and distances.
 - (E) Layout and dimensions of proposed streets, buildings, parking areas, and landscape areas.
 - (F) Location, dimensions, and labeling of other features such as bicycle racks, dumpsters, trash cans, fences, signage, mechanical equipment.
 - (G) Location of manmade features including irrigation facilities, bridges, railroad tracks, and buildings.
 - (H) A tabulation table, showing total gross acreage, square footage of street rights of way, square footage of building footprint, square footage of total building floor area, square footage of landscaping, number of parking spaces, and if any, the number and type of dwellings, and the percentage devoted to each dwelling type and overall dwelling unit density.
 - (I) Identification of property, if any, not proposed for development.
 - (2) Grading and drainage plan showing the following:
 - (A) North arrow, scale, and site plan underlay.
 - (B) Topography contours at one foot (1') intervals.
 - (C) Areas of substantial earthmoving with an erosion control plan.
 - (D) Location of existing watercourses, canals, ditches, springs, wells, culverts, and storm drains, and proposed method of dealing with all irrigation and waste water.
 - (E) Location of any designated floodplain and/or wetland boundaries.

- (F) Direction of stormwater flows, catch basins, inlets, outlets, waterways, culverts, detention basins, orifice plates, outlets to off site facilities, and off site drainage facilities when necessary based on adopted city requirements. The discharge rate off site is restricted to 0.1 cubic foot/second, or less where off site facilities to accept stormwater are limited.
- (G) Hydraulic and hydrologic storm drainage calculations using a 10-year storm event. Certain locations in the path of major drainage may need to accommodate 100-year events.

(3) Utility plan showing the following:

- (A) North arrow, scale, and site plan underlay.
- (B) All existing and proposed utilities including, but not limited to: sewer, culinary water, secondary water, fire hydrants, storm drains, subsurface drains, gas lines, power lines, communications lines, cable television lines, and streetlights.
- (C) Minimum fire flow required by the fire code for the proposed structures, and fire flow calculations at all hydrant locations.
- (D) Location and dimensions of all utility easements.
- (E) A letter from culinary water providers, addressing the feasibility and their requirements to serve the project.

(4) Landscaping plan, consistent with the requirements of [chapter 18](#) of this title.

(5) Building elevations for all buildings showing the following:

- (A) Accurate front, rear, and side elevations drawn to scale.
- (B) Exterior surfacing materials and colors, including roofing material and color.
- (C) Outdoor lighting, furnishings and architectural accents.
- (D) Location and dimensions of signs proposed to be attached to the building or structure, or located on the premises.

- d. Where one or more conditions of unusual soil, vegetation, geology or slope exist, resulting in increased fire, flood or erosion hazards, traffic circulation problems, sewage disposal problems and potential property damage from extensive soil slippage and subsidence, an applicant shall, upon request of the planning commission or city engineer, provide contour and drainage plans, cut and fill specifications, and soil and geologic reports. The required details of such reports and plans may vary depending on the severity of the unusual conditions, but in any event such plans and reports shall be reviewed and approved by the city prior to final approval of a site plan.
- e. Any necessary agreements with adjacent property owners regarding storm drainage or other pertinent matters.
- f. Evidence of compliance with applicable federal, state, and local laws and regulations, if requested by the planning commission.
- g. A traffic impact analysis, if requested by the city engineer or the planning commission.
- h. Warranty deed or preliminary title report, or other document showing the applicant has control of the property, if requested by the planning commission.
- i. Wastewater discharges, septic tanks and drain fields approval from the Bear River health department.
- j. Parcel map(s) from the Box Elder County recorder's office showing the subject property and all property located within four hundred feet (400') thereof, if requested by the planning commission.

3. After the application is determined to be complete, the zoning administrator shall schedule a public meeting before the planning commission as provided in section [10-5-4](#) of this chapter.

- a. A staff report evaluating the application may be prepared by the zoning administrator.
- b. The planning commission may call a public hearing if the commission determines a hearing is in the public interest.

- 4. The planning commission shall hold a public meeting or hearing, as the case may be, and thereafter shall recommend to the city council approval, approval with conditions, or denial of the application pursuant to the standards set forth in subsection E of this section. Any conditions of approval shall be limited to conditions needed to conform the site plan to approval standards.
- 5. The city council shall hold a public meeting, and may hold a public hearing, to consider the planning commission's recommendation and thereafter shall approve, approve with conditions, or deny the application pursuant to the standards set forth in subsection E of this section. Any conditions of approval shall be limited to conditions needed to conform the site plan to approval standards.
- 6. After the city council makes a final decision, the zoning administrator shall give the applicant written notice of the decision within ten (10) days.
- 7. Prior to the issuance of any building permit, the applicant shall provide the city a copy of the approved site plan which includes any required corrections or revisions. Once in final, approved form, a site plan shall be marked "Approved" by the city and shall be used as the basis for inspecting development and construction on the property subject to the site plan.
- 8. A record of all site plan approvals shall be maintained in the office of the zoning administrator.

E. Standards For Approval: The following standards shall apply to the approval of a site plan:

- 1. The entire site shall be developed at one time unless a phased development plan is approved.
- 2. A site plan shall conform to applicable standards set forth in this title and other applicable provisions of this code. Conditions may be imposed as necessary to achieve compliance with applicable code requirements.
- 3. In order to assure that the development will be constructed to completion in an acceptable manner, the city may require that the applicant enter into an agreement and provide a satisfactory bond, escrow deposit, or letter of credit which shall assure timely construction and installation of improvements required by a site plan approval.
- 4. In a planned center, individual uses shall be subject to the following requirements:
 - a. The overall planned center shall have been approved as a conditional use which shall include an overall site plan, development guidelines, and a list of uses allowed in the center.
 - b. Development guidelines for a planned center shall, as a minimum, address the following topics:
 - (1) General site engineering (e.g., storm drainage, provision of utilities, erosion control, etc.).
 - (2) Architectural guidelines, including building setbacks, height, massing and scale, site coverage by buildings, materials, and colors.
 - (3) Landscaping and open space standards.
 - (4) Signage.
 - (5) Exterior lighting.
 - (6) Parking, pedestrian and vehicular circulation, and access to the site.
 - (7) Rights of access within the center (use of cross easements).
 - (8) Development phasing and improvements/amenities to be completed with each phase.
 - (9) Outdoor sales, storage and equipment.

- (10) Fencing and walls.
- (11) Maintenance standards and responsibilities.

c. After approval of a planned center individual uses therein may be approved pursuant to a building permit. Building permits for individual uses with an approved planned center shall be reviewed by the zoning administrator for compliance of the proposed use to the overall site plan, development guidelines, and approved use list for the planned center. The zoning administrator shall approve, approve with conditions, or deny the permit based on compliance with applicable conditions of the site plan and provisions of this title.

F. Appeal Of Decision: Any person adversely affected by a final decision of the city council regarding a site plan may, within thirty (30) days after such decision, appeal to the board of appeals in accordance with the provisions of section [10-5-21](#) of this chapter.

G. Effect Of Approval: Every site for which a site plan has been approved shall conform to such plan.

1. A building permit shall not be issued for any building or structure, external alterations thereto, or any sign or advertising structure until the provisions of this section have been met. No structures or improvements may be constructed unless shown on an approved site plan or required by law.
2. Approval of a site plan shall not be deemed an approval of any conditional use permit or other permit. Approval of such permits shall be obtained in accordance with applicable provisions of this title.

H. Amendments: Except as may be provided for elsewhere in this title, no element of an approved site plan shall be changed or modified without first obtaining approval of an amended site plan as follows:

1. Alteration or expansion of an approved site plan may be permitted by the planning commission upon making the following findings:
 - a. Any proposed use is consistent with uses permitted on the site.
 - b. Existing uses were permitted when the site plan was approved, or have received a conditional use permit.
 - c. The proposed use and site will conform to applicable requirements of this code.
 - d. The proposed alteration or expansion meets the approval standards of subsection E of this section.
 - e. The architecture of the proposed alteration or expansion, and landscaping, site design and parking layout are compatible with facilities existing on the site.
 - f. The site can accommodate any change in the number of employees on the site or any change in impact on surrounding infrastructure.
2. If the planning commission cannot make the findings required in the foregoing subsection, a conditional use permit or amended site plan, as the case may be, shall be approved before any alteration or expansion occurs.
3. The procedure for approval of an amended site plan shall be the same as the procedure for approval of an original site plan as set forth in this section.

I. Revocation: A site plan approval may be revoked as provided in section [10-7-6](#) of this title.

J. Expiration: A site plan approval shall expire and have no further force or effect if the building, activity, construction or occupancy authorized by the approval is not commenced within one year.

Adopted by Ord. 2007-02 on 7/11/2007

10-5-14: CONDITIONAL USE PERMIT

A. Purpose: This section sets forth procedures for considering and approving conditional use permits.

B. Authority: The city council is authorized to approve conditional use permits as provided in this section after receiving a recommendation from the planning commission.

C. Initiation: A property owner, or the owner's agent, may request a conditional use permit as provided in subsection D1 of this section.

D. Procedure: An application for a conditional use permit shall be considered and processed as provided in this subsection.

1. A complete application shall be submitted to the office of the zoning administrator in a form established by the administrator along with any fee established by the city's schedule of fees. The application shall include at least the following information:
 - a. The name, address and telephone number of the applicant and the applicant's agent, if any.
 - b. The address and parcel identification of the subject land.
 - c. The zone, zone boundaries, and present use of the subject land.
 - d. A description of the proposed conditional use.
 - e. A plot plan showing the following:
 - (1) Applicant's name.
 - (2) Site address.
 - (3) Property boundaries and dimensions.
 - (4) Layout of existing and proposed buildings, parking, landscaping, and utilities.
 - (5) Adjoining property lines and uses within one hundred feet (100') of the subject property.
 - f. Traffic impact analysis, if required by the city engineer.
 - g. A statement by the applicant demonstrating how the conditional use permit request meets the approval standards of subsection E of this section.
 - h. Such other and further information or documentation as the zoning administrator may reasonably require for proper consideration and disposition of a particular application.
2. After the application is determined to be complete, the zoning administrator shall schedule a public meeting before the planning commission as provided in section [10-5-4](#) of this title.
 - a. A staff report evaluating the application may be prepared by the zoning administrator.
 - b. The planning commission may call a public hearing if the commission determines a hearing is in the public interest.
3. The planning commission shall hold a public meeting or hearing, as the case may be, and thereafter shall recommend to the city council approval, approval with conditions, or denial of the application pursuant to the standards set forth in subsection E of this section. Any conditions of approval shall be limited to conditions needed to conform the conditional use permit to approval standards.
4. The city council shall hold a public meeting, and may hold a public hearing, to consider the planning commission recommendation and thereafter shall approve, approve with conditions, or deny the application pursuant to the standards set forth in subsection E of this section. Any conditions of approval shall be limited to conditions needed to conform the conditional use permit to approval standards.
5. After the city council makes a final decision, the zoning administrator shall give the applicant written notice of the decision within ten (10) days.
6. A record of all conditional use permits shall be maintained in the office of the zoning administrator.

- E. Approval Standards: A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied. The following standards shall apply to the issuance of a conditional use permit:
1. A conditional use permit may be issued only when the proposed conditional use is allowed by the zone where the conditional use will be located, or by another provision of this title.
 2. Conditions may be imposed as necessary to prevent or minimize adverse effects upon other property or improvements in the vicinity of a conditional use, upon the city as a whole, or upon public facilities and services. Such conditions may include, but are not limited to, conditions concerning use, construction, character, location, landscaping, screening, parking, hours of operation, and other matters relating to the purposes and objectives of this title. Such conditions shall be expressly set forth in a motion authorizing a conditional use permit.
 3. No conditional use permit shall be authorized unless the evidence presented satisfies each of the following standards. The planning commission and city council may request additional information as may be reasonably needed to determine whether the standards of this subsection can be met.
 - a. The proposed use will not, under the particular circumstances and conditions imposed, be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.
 - b. The proposed use of the particular location is necessary or desirable to provide a service or facility which will contribute to the general well being of the neighborhood and community.
 - c. The proposed use will comply with regulations and conditions specified in this title for such use.
 - d. The proposed use will be compatible with and complementary to existing surrounding uses, buildings and structures.
 4. The following factors shall be reviewed and considered in determining whether a conditional use permit application should be approved, approved with conditions, or denied:
 - a. The harmony and compliance of the proposed use with the objectives and requirements of the city's general plan and this title.
 - b. The suitability of the specific property for the proposed use.
 - c. The development or lack of development adjacent to the proposed site and the harmony of the proposed use with existing uses in the vicinity.
 - d. Whether or not the proposed use or facility may be injurious to potential or existing development in the vicinity.
 - e. The economic impact of the proposed facility or use on the surrounding area.
 - f. The aesthetic impact of the proposed facility or use on the surrounding area.
 - g. The number of other similar conditional uses in the area and the public need for the proposed conditional use.
 - h. The present and future requirements for transportation, traffic, water, sewer, and other utilities, for the proposed site and surrounding area.
 - i. The safeguards proposed or provided to assure the use is served by adequate utilities, transportation access, drainage, parking, loading space, lighting, screening, landscaping, open space, fire protection, and pedestrian and vehicular circulation.
 - j. The safeguards provided or proposed to prevent noxious or offensive emissions such as noise, glare, dust, pollutants and odor from the proposed use.
 - k. The safeguards provided or proposed to minimize other adverse effects from the proposed facility or use on persons or property in the area; and
 - l. The impact of the proposed use on the health, safety, and welfare of the city, the area, and persons owning or leasing property in the area.
- F. Appeal Of Decision: Any person adversely affected by a final decision of the city council regarding a conditional use permit may, within thirty (30) days after such decision, appeal to the district court as provided in section 10-9a-801 of the Utah code, as amended.
- G. Effect Of Approval: A conditional use permit shall not relieve an applicant from obtaining any other authorization, permit, or license required under this title or any other title of this code.
1. A conditional use permit may be transferred so long as the use conducted thereunder conforms to the terms of the permit.
 2. Unless otherwise specified by the city council and subject to the provisions relating to amendment, revocation, or expiration of a conditional use permit, a conditional use permit shall be of indefinite duration.
- H. Amendment: The procedure for amending any conditional use permit shall be the same as the original procedure set forth in this section.
- I. Revocation: A conditional use permit may be revoked as provided in section [10-7-6](#) of this title.
1. In addition to the grounds set forth in section [10-7-5](#) of this title, any of the following shall be grounds for revocation:
 - a. The use for which a permit was granted has ceased for one year or more.
 - b. The holder or user of a permit has failed to comply with the conditions of approval or any city, state, or federal law governing the conduct of the use.
 - c. The holder or user of the permit has failed to construct or maintain the site as required by an approved site plan.
 - d. The operation of the use or the character of the site has been found to be a nuisance or a public nuisance by a court of competent jurisdiction in any civil or criminal proceeding.
 2. No conditional use permit shall be revoked against the wishes of the holder or user of the permit without first giving such person an opportunity to appear before the city council and show cause as to why the permit should not be amended or revoked. Revocation of a conditional use permit shall not limit the city's ability to initiate or complete other legal proceedings against the holder or user of the permit.
- J. Expiration: A conditional use permit shall expire and have no further force or effect if the building, activity, construction, or occupancy authorized by the permit is not commenced within one year after approval.

Adopted by Ord. 2007-02 on 7/11/2007

10-5-15: PERMITTED USE REVIEW

- A. Purpose: This section sets forth procedures for reviewing permitted uses in public facility, commercial, and industrial zones to determine compliance with applicable requirements of this title. Such review is not required for uses in agricultural or residential zones nor for any use approved in conjunction with a site plan approval as provided in section [10-5-13](#) of this chapter.
- B. Authority: The zoning administrator is authorized to review and approve applications for permitted uses in public facility, commercial, and industrial zones as set forth in this section.
- C. Initiation: A property owner, the owner's agent, or a lessee may request a permitted use review as provided in subsection D1 of this section.
- D. Procedure: Permitted use applications shall be considered and processed as provided in this subsection.
 1. A complete application shall be submitted to the zoning administrator in a form established by the administrator along with any fee

established by the city's schedule of fees. The application shall include at least the following information:

- a. The name, address and telephone number of the applicant and the applicant's agent, if any.
- b. The address and parcel identification of the subject property.
- c. The zone, zone boundaries and present use of the subject property.
- d. A description of the proposed use.
- e. A plot plan showing the following:
 - (1) Applicant's name.
 - (2) Site address.
 - (3) Property boundaries and dimensions.
 - (4) Layout of existing and proposed buildings, parking, landscaping, and utilities.
 - (5) Adjoining property lines and uses within one hundred feet (100') of the subject property.
- f. Other information needed to demonstrate the permitted use conforms to applicable provisions of this title.

2. After an application is determined to be complete, the zoning administrator shall approve, approve with conditions, or deny the application pursuant to the standards set forth in subsection E of this section. Any conditions of approval shall be limited to conditions needed to conform the permitted use to approval standards.
3. After making a final decision, the zoning administrator shall give the applicant written notice of the decision within ten (10) days.
4. A record of all permitted use reviews shall be maintained in the office of the zoning administrator.

E. Approval Standards: The following standards shall apply to approval of a permitted use. A permitted use shall:

1. Be allowed as a permitted use in the applicable zone.
2. Conform to development standards of the applicable zone.
3. Conform to applicable regulations of general applicability and regulations for specific uses set forth in this title.
4. Conform to any other applicable requirements of this code.

F. Appeal Of Decision: Any person adversely affected by a decision of the zoning administrator regarding a permitted use review may appeal to the board of appeals in accordance with the provisions of section [10-5-21](#) of this chapter.

G. Effect Of Approval: Approval of a permitted use shall authorize an applicant to engage in the permitted use subject to any conditions of approval. Approval of a permitted use shall not be deemed an approval of a conditional use permit, site plan, or other permit. Approval of such permits shall be obtained in accordance with applicable provisions of this title.

H. Amendments: The procedure for amending any permitted use approval shall be the same as the original procedure set forth in this section.

I. Revocation: A permitted use approval may be revoked as provided in section [10-7-6](#) of this title.

J. Expiration: A permitted use approval shall expire and have no further force or effect if the building, activity, construction, or occupancy authorized by the approval is not commenced within one hundred eighty (180) days after approval.

Adopted by Ord. 2007-02 on 7/11/2007

10-5-16: TEMPORARY USE PERMIT

A. Purpose: This section sets forth procedures for considering and approving a temporary use permit.

B. Authority: The zoning administrator is authorized to issue temporary use permits as provided in this section.

C. Initiation: Any person may apply for a temporary use permit as provided in subsection D1 of this section.

D. Procedure: An application for a temporary use permit shall be considered and processed as provided in this subsection.

1. A complete application shall be submitted to the zoning administrator in a form established by the administrator along with any fee established by the city's schedule of fees. The application shall include at least the following information:

- a. The name, address and telephone number of the applicant and the applicant's agent, if any.
- b. The name and address of the applicant and the name and address of every person or company the applicant represents.
- c. The person chiefly responsible for the event or use and/or the sponsoring organization and its chief officer.
- d. The requested temporary use.
- e. The place, date, time of the event, and hours of operation of the proposed use.
- f. A statement of the approximate number of persons, animals, and/or vehicles which will participate in the event or be generated by the temporary use, and an explanation of how the number was derived, such as the number of presold tickets, available seating and/or parking, and past experience with similar activities.
- g. The following maps, plans, and documents evidencing sufficient measures to be taken to reasonably protect the health, safety, and welfare of patrons and the public in general:
 - (1) A scale drawing of the area in which the event is to be held or the use conducted, showing the location of any existing structures and improvements on the site of the proposed temporary use, including, but not limited to, parking areas, curbs, gutters, sidewalks, and outside storage areas.
 - (2) Sufficient evidence to demonstrate that the temporary use will meet the general and specific requirements of sections [10-29-4](#) and [10-29-5](#) of this title.

h. Other such items as reasonably requested by the zoning administrator to determine the feasibility of the temporary use.

2. After the application is determined to be complete, the zoning administrator shall solicit recommendations from the Bear River health department, city engineer, and fire prevention and law enforcement officials. Thereafter the zoning administrator shall approve, approve with conditions, or deny the application pursuant to the standards set forth in subsection E of this section. Any conditions of approval shall be limited to conditions needed to conform the temporary use permit to approval standards.
3. After making a final decision, the zoning administrator shall give the applicant written notice of the decision within ten (10) days.
4. A record of all temporary use permits shall be maintained in the office of the zoning administrator.

E. Approval Standards: The following standards shall apply to the issuance of a temporary use permit:

1. A temporary use shall conform to:
 - a. The development standards set forth in sections [10-29-4](#) and [10-29-5](#) of this title.
 - b. Any recommendations received from the Bear River health department, city engineer, and fire prevention and law enforcement officials.
2. No temporary use permit shall be issued unless the zoning administrator finds the proposed temporary use:
 - a. Will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or

- working within the vicinity, or injurious to property, improvements or the public in general.
 - b. Will not substantially interrupt the safe and orderly movement of public transportation or other vehicular and pedestrian traffic in the area, nor block traffic lanes or hinder traffic during peak commuter hours on weekdays on any primary arterial street or principal commuter route designated by the city.
 - c. Will not conflict with construction or development in the public right of way or at public facilities.
 - d. Will not unduly interfere with the movement of police, fire, ambulance, or other emergency vehicles on the streets, nor require the diversion of so great a number of police, fire, or other essential public employees from their normal duties as to prevent reasonable police, fire, or other public services protection to the remainder of the city.
 - e. Will not conflict with nor be incompatible with the permitted uses and regulations of the zone within which the temporary use is located.
 - f. Is in compliance with regulations, conditions and licensing requirements of applicable provisions of this code.
- F. Appeal Of Decision: Any person adversely affected by a final decision of the zoning administrator regarding a temporary use permit may appeal to the board of appeals in accordance with the provisions of section [10-5-21](#) of this chapter.
- G. Effect Of Approval: Approval of a temporary use permit shall authorize an applicant to engage in the temporary use subject to conditions of approval as may be imposed by the zoning administrator.
- H. Amendments: The procedure for amending a temporary use permit shall be the same as the original procedure set forth in this section.
- I. Revocation: A temporary use permit may be revoked as provided in section [10-7-6](#) of this title.
- J. Expiration: A temporary use permit shall expire as provided in subsection [10-29-4E](#) of this title. Extensions of time shall be prohibited.

Adopted by Ord. 2007-02 on 7/11/2007

10-5-17: SIGN PERMIT

- A. Purpose: This section sets forth procedures for considering and approving a sign permit.
- B. Authority: The zoning administrator is authorized to issue sign permits as provided in this section.
- C. Initiation: Any person may apply for a sign permit as provided in subsection D1 of this section.
- D. Procedure: An application for a sign permit shall be considered and processed as provided in this subsection.
1. A complete application shall be submitted to the zoning administrator in a form established by the administrator along with any fee established by the city's schedule of fees. The application shall include at least the following information:
 - a. The name, address and telephone number of the applicant and the applicant's agent, if any.
 - b. A statement by the applicant demonstrating how the sign permit request meets the approval standards of subsection E of this section.
 - c. A plot plan showing:
 - (1) Applicant's name.
 - (2) Site address.
 - (3) Property boundaries and dimensions.
 - (4) Layout of existing and proposed buildings, parking, landscaping, and utilities; and
 - (5) Adjoining property lines and uses within one hundred feet (100') of the subject property.
 - d. An elevation drawing showing:
 - (1) Type of sign.
 - (2) Sign location in relation to nearest property line.
 - (3) Sign height.
 - (4) Sign face area.
 - (5) Sign illumination details.
 - (6) Reflective elements and materials.
 2. After the application is determined to be complete, the zoning administrator shall approve, approve with conditions or deny the application pursuant to the standards set forth in subsection E of this section. Any conditions of approval shall be limited to conditions needed to conform the sign permit to approval standards.
 3. After making a decision, the zoning administrator shall give the applicant written notice of the decision within ten (10) days.
 4. A record of all sign permits shall be maintained in the office of the zoning administrator.
- E. Approval Standards: The following standards shall apply to the issuance of a sign permit:
1. A sign shall conform to applicable provisions of chapter 21 of this title.
 2. Each sign shall be inspected by a designated officer of the city immediately after installation. The permittee shall request inspection within five (5) business days after installation. Any sign not conforming to the requirements of chapter 21 of this title shall be made to conform or be removed.
 3. Building and electrical permits shall be obtained as required by the building code.
- F. Appeal Of Decision: Any person adversely affected by a decision of the zoning administrator regarding a sign permit may appeal to the board of appeals in accordance with the provisions of section [10-5-21](#) of this chapter.
- G. Effect Of Approval: Approval of a sign permit shall authorize an applicant to:
1. Construct the sign as indicated on the permit, if no building and electrical permits are required.
 2. If building and electrical permits are required, such permits shall be obtained prior to construction.
- H. Amendments: The procedure for amending any sign permit shall be the same as the original procedure set forth in this section.
- I. Revocation: A sign permit may be revoked as provided in section [10-7-6](#) of this title.
- J. Expiration: A sign permit shall expire and have no further force or effect if the sign authorized by the permit is not installed within one hundred eighty (180) days after approval.

Adopted by Ord. 2007-02 on 7/11/2007

10-5-18: BUILDING PERMIT REVIEW

- A. Purpose: This section sets forth procedures for determining zoning compliance of a building permit application.
- B. Authority: The zoning administrator is authorized to review building permits for zoning compliance as provided in this section.
- C. Initiation: Any person who applies for a building permit as provided in the building code shall be subject to this section.
- D. Procedure: A building permit application shall be reviewed for zoning compliance as provided in this subsection.
1. A complete building permit application shall be submitted to the building official in a form established by the building official along with any

fee established by the city's schedule of fees. The application shall include at least the following information:

- a. The name, address and telephone number of the applicant and the applicant's agent, if any; and
- b. A plot plan showing the following:
 - (1) Applicant's name.
 - (2) Site address.
 - (3) Property boundaries and dimensions.
 - (4) Layout of existing and proposed buildings, parking, landscaping, and utilities.
 - (5) Adjoining property lines and uses within one hundred feet (100') of the subject property.

2. After the application is determined to be complete, the building official shall transmit the application to the zoning administrator. The zoning administrator shall approve, approve with conditions, or deny the zoning compliance request pursuant to the standards set forth in subsection E of this section. Any conditions of approval shall be limited to conditions needed to conform the permit to approval standards.
3. After making a final decision, the zoning administrator shall give the building official written notice of the zoning compliance decision within ten (10) days.
4. A record of all zoning compliance reviews shall be maintained in the office of the building official.

E. Approval Standards: The following standards shall apply to determining zoning compliance of a building permit application:

1. No building permit shall be approved for zoning compliance unless:
 - a. The proposed building, structure, or use when built, and the land on which it is located, will conform to applicable provisions of this title and any applicable conditions of approval required under a permit applicable to the subject land.
 - b. The activity for which the permit is issued is located on a legally created and improved lot, except as otherwise provided in subsection E2 of this section.
2. If a lot for which a building permit is sought does conform to the street right of way or improvement standards of this title, a building permit may be issued only if the landowner dedicates sufficient land to the city to provide local street access to the lot or meets the requirements of subsection E3 of this section.
3. In lieu of requiring completion of all improvements to a dedicated city street prior to the issuance of a building permit, a building permit may be issued if:
 - a. The road is traversable by expected vehicular traffic and law enforcement, fire, and other emergency vehicles.
 - b. A written agreement is executed by the landowner stating the owner's consent to the formation of a special improvement district at such time as may be determined by the city for the purpose of completing all improvements to said street in accordance with city standards.

F. Appeal Of Decision: Any person adversely affected by a final decision of the zoning administrator regarding zoning compliance of a building permit may appeal to the board of appeals in accordance with the provisions of section [10-5-21](#) of this chapter.

G. Effect Of Approval: Approval of zoning compliance shall authorize an applicant to proceed with the building permit review process. The requirements of this section shall be in addition to any other requirements for the issuance of a building permit, as contained in this code.

H. Amendments: The procedure for amending any zoning compliance decision shall be the same as the original procedure set forth in this section.

I. Expiration: A building permit shall expire and have no further force or effect if the building, activity, construction or occupancy authorized by the permit is not commenced within the time provided by the applicable building code.

Adopted by Ord. 2007-02 on 7/11/2007

10-5-19: NONCONFORMITY DETERMINATION

- A. Purpose: This section sets forth procedures for determining the existence, expansion, or modification of a nonconforming use or lot, noncomplying structure, or other nonconformity.
- B. Authority: The planning commission is authorized to make determinations regarding the existence, expansion or modification of a nonconforming use or lot, noncomplying structure, or other nonconformity as provided in this section.
- C. Initiation: A property owner, or the owner's agent, may request a determination regarding the existence, expansion or modification of a nonconforming use or lot, noncomplying structure, or other nonconformity affecting the owner's property as provided in subsection D1 of this section.
- D. Procedure: An application for a determination of the existence, expansion or modification of a nonconforming use, structure, lot, or other nonconformity shall be considered and processed as provided in this subsection.

1. A complete application shall be submitted to the zoning administrator in a form established by the administrator along with any fee established by the city's schedule of fees. The application shall include at least the following information:
 - a. The name, address and telephone number of the applicant and the applicant's agent, if any.
 - b. The nonconforming use or lot, noncomplying structure, or other nonconformity in question.
 - c. A description of the action requested by the applicant.
 - d. Grounds for finding the use, structure, lot, or other circumstance is nonconforming or for allowing expansion or modification of the nonconformity.
2. After the application is determined to be complete, the planning commission shall approve, approve with conditions, or deny the application pursuant to the standards set forth in subsection E of this section. Any conditions of approval shall be limited to conditions needed to conform the nonconformity, its expansion or modification to approval standards.
3. After the planning commission makes a final decision, the zoning administrator shall give the applicant written notice of the decision within ten (10) days.
4. A record of all nonconforming use determinations shall be maintained in the office of the zoning administrator.

E. Standard For Decision: A determination regarding the existence, expansion, or modification of a nonconforming use, structure, lot, or other nonconformity shall be based on applicable provisions of [chapter 6](#) of this title.

F. Appeal Of Decision: Any person adversely affected by a final decision of the planning commission regarding a nonconforming use or lot, noncomplying structure, or other nonconformity may, within thirty (30) days after such decision, appeal to the board of appeals in accordance with the provisions of section [10-5-21](#) of this chapter.

G. Effect Of Decision: An applicant may continue, expand, or modify a nonconforming use or lot, noncomplying structure, or other nonconformity as determined by the planning commission.

H. Expiration: Determinations regarding nonconformities shall not expire but shall run with the land.

Adopted by Ord. 2007-02 on 7/11/2007

10-5-20: ADMINISTRATIVE INTERPRETATION

- A. Purpose: The provisions of this title, though detailed and extensive, cannot as a practical matter address every specific situation to which these provisions may be applied. This section allows the zoning administrator to interpret a provision of this title in light of the general and specific purposes for which it was enacted and as applied to specific circumstances.
- B. Authority: The zoning administrator is authorized to render interpretations of the provisions of this title, and any rule or regulation adopted pursuant thereto, as provided in this section.
- C. Initiation: Any person may request an administrative interpretation as provided in subsection D1 of this section.
- D. Procedure: An application for an administrative interpretation shall be considered and processed as provided in this subsection.
1. A complete application shall be submitted to the zoning administrator in a form established by the administrator along with any fee established by the city's schedule of fees. The application shall include at least the following information:
 - a. The name, address and telephone number of the applicant and the applicant's agent, if any.
 - b. The specific provision or provisions of this title for which an interpretation is requested.
 - c. Specific facts of the situation which illustrate the need for an administrative interpretation.
 - d. The interpretation claimed by the applicant to be correct.
 - e. When a use interpretation is requested the application shall include:
 - (1) A statement explaining why the proposed use should be deemed as included within a use category allowed by the zone applicable to the property.
 - (2) Documents, statements, and other evidence demonstrating that the proposed use will conform to all use limitations established by the applicable zone.
 2. After the application is determined to be complete, the zoning administrator shall review the request and make an interpretation in accordance with the standards set forth in subsection E of this section.
 3. After the planning commission makes a final decision, the zoning administrator shall give the applicant written notice of the decision within ten (10) days.
 4. A record of all administrative interpretations shall be maintained in the office of the zoning administrator.
- E. Standards For Making Administrative Interpretations: The following standards shall apply to administrative interpretations:
1. Administrative interpretations shall not add to or change the provisions of this title.
 2. Questions about the location of zone boundaries shall be resolved by applying the standards set forth in section [10-9-4](#) of this title.
 3. An administrative interpretation shall be consistent with:
 - a. The provisions of this title; and
 - b. Any previously rendered interpretations based on similar facts occurring after the effective date of this title.
 4. A use interpretation shall also be subject to the following standards:
 - a. A use defined in section [10-3-4](#) of this title shall be interpreted as provided therein.
 - b. Any use specifically listed as "not permitted" in a table of permitted and conditional uses for a particular zone shall not be allowed in that zone.
 - c. No use interpretation shall allow a use in a zone unless evidence is presented demonstrating the use will conform to development standards established for the zone.
 - d. No use interpretation shall allow a use in a particular zone unless the use is substantially similar to a use allowed in the zone.
 - e. If a proposed use is most similar to a conditional use authorized in the zone in which it is proposed to be located, any interpretation allowing such use shall require that the use be approved only as a conditional use pursuant to section [10-5-14](#) of this chapter.
 - f. No use interpretation shall permit the establishment of any use that would be inconsistent with the statement of purpose of the zone in which it would be located.
- F. Appeal Of Decision: Any person adversely affected by an administrative interpretation rendered by the zoning administrator may appeal to the board of appeals in accordance with the provisions of section [10-5-21](#) of this chapter.
- G. Effect Of Approval: An administrative interpretation shall apply only to the land for which an interpretation is given.
1. A use interpretation finding a use to be a permitted or conditional use in a particular zone shall be deemed to authorize only that use. A use interpretation shall not authorize another allegedly similar use for which a separate use interpretation has not been issued.
 2. A use interpretation finding a particular use to be a permitted or conditional use shall not authorize the establishment of such use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any approvals or permits that may be required by this title or other applicable provisions of this code.

Adopted by Ord. 2007-02 on 7/11/2007

10-5-21: APPEAL OF ADMINISTRATIVE DECISION

- A. Purpose: This section sets forth procedures for appealing an administrative decision applying provisions of this title.
- B. Authority: The board of appeals shall hear and decide any appeal from an administrative decision applying the provisions of this title as provided in this section.
- C. Initiation: Any person, or any officer, department, or board of the city, adversely affected by a decision administering or interpreting a provision of this title may appeal to the board of appeals as provided in subsection D1 of this section. A complete application for an appeal shall be filed within ten (10) days of the decision which is appealed.
1. Only decisions applying this title may be appealed to the board of appeals.
 2. A person may not appeal, and the board of appeals may not consider, any amendment to this title. An appeal may not be used to waive or modify the terms or requirements of this title.
- D. Procedure: An appeal of an administrative decision to the board of appeals shall be considered and processed as provided in this subsection.
1. A complete application shall be submitted to the zoning administrator in a form established by the administrator along with any fee established by the city's schedule of fees. The application shall include at least the following information:
 - a. The name, address and telephone number of the applicant and the applicant's agent, if any.
 - b. The decision being appealed.
 - c. Grounds for the appeal.
 - d. A description of the action claimed by the applicant to be incorrect.

2. After an application is determined to be complete, the zoning administrator shall schedule a public meeting before the board of appeals as provided in section [10-5-4](#) of this chapter. Prior to the hearing the zoning administrator shall transmit to the board of appeals all papers constituting the record of the action which is appealed.
3. The board of appeals shall consider the appeal at a public meeting and thereafter shall approve, approve with conditions, or deny the appeal. Any conditions of approval shall be limited to conditions needed to conform the matter appealed to applicable approval standards.
4. After the board of appeals makes a final decision, the zoning administrator shall give the applicant written notice of the decision within ten (10) days.
5. A record of all appeals shall be maintained in the office of the zoning administrator.

E. Standards For Decision:

1. The board of appeals may reverse or affirm, wholly or in part, or may modify an administrative decision. To that end the board of appeals shall have all the powers of the officer from whom the appeal was taken, may attach appropriate conditions, and may issue or direct the issuance of a permit.
2. The person making an appeal shall have the burden of proving that an error has been made.
3. The board shall review an administrative decision for correctness and shall give no deference to the reasonableness of the decision being appealed.
4. Because the provisions of this title are in derogation of a property owner's common law right to unrestricted use of property, any provision of this title found to be ambiguous shall be construed in favor of the property owner.

F. Appeal Of Decision: Any person adversely affected by a final decision of the board of appeals regarding an appeal of an administrative decision may, within thirty (30) days after such decision, appeal to the district court as provided in section 10-9a-801 of the Utah code, as amended.

Adopted by Ord. 2007-02 on 7/11/2007

10-5-22: VARIANCE

- A. Purpose: This section sets forth procedures for considering and approving a variance to the provisions of this title. Variance procedures are intended to provide a narrowly circumscribed means by which relief may be granted from particular unforeseen applications of the provisions of this title that create unreasonable hardships.
- B. Authority: The board of appeals is authorized to hear and decide variances to the provisions of this title as provided in this section.
- C. Initiation: A property owner, lessee, or holder of a beneficial interest in property, or the agent thereof, may request a variance to the provisions of this title as provided in subsection D1 of this section. All such applications shall be signed by the owner of property for which the variance is sought.
- D. Procedure: An application for a variance shall be considered and processed as provided in this subsection.

1. A complete application shall be submitted to the zoning administrator in a form established by the administrator along with any fee established by the city's schedule of fees. The application shall include at least the following information:
 - a. The name, address and telephone number of the applicant and the applicant's agent, if any.
 - b. The address and parcel identification of the subject property.
 - c. The specific feature or features of the proposed use, construction or development that require a variance.
 - d. The specific provision of this title from which a variance is sought.
 - e. A statement of the characteristics of the subject property that prevent compliance with the provisions of this title and result in unnecessary hardship.
 - f. A statement of the amount of variation needed to permit the proposed use, construction or development.
 - g. An explanation of how the application satisfies the variance standards set forth in subsection E of this section.
 - h. A plot plan showing the following:
 - (1) Applicant's name.
 - (2) Site address.
 - (3) Property boundaries and dimensions.
 - (4) Layout of existing and proposed buildings, parking, landscaping, and utilities.
 - (5) Adjoining property lines and uses within one hundred feet (100') of the subject property.
 - i. An elevation plan drawn to scale showing elevations of existing and proposed structures.
 - j. When the variance involves building height, a streetscape plan showing the height of all buildings within one hundred fifty feet (150') of the subject property.
 - k. When a variance involves grade changes, a topographical drawing prepared by a licensed surveyor or civil engineer, showing existing topography in dashed lines at two foot (2') intervals and showing the proposed grade in solid lines at two foot (2') intervals.
 - l. When a variance involves retaining walls, a plan showing all retaining walls, including their height relative to proposed grades.
 - m. Any other information reasonably determined by the zoning administrator to be pertinent to a requested variance.
2. After the application is determined to be complete, the zoning administrator shall schedule a public meeting before the board of appeals as provided in section [10-5-4](#) of this chapter.
3. A staff report evaluating the application may be prepared by the zoning administrator.
4. The board of appeals shall hold a public meeting and thereafter shall approve, approve with conditions or deny the application pursuant to the standards set forth in subsection E of this section. Any conditions of approval shall be limited to conditions needed to conform the variance to approval standards.
5. After the board of appeals makes a final decision, the zoning administrator shall give the applicant written notice of the decision within ten (10) days.
6. A record of all variances shall be maintained in the office of the zoning administrator.

E. Approval Standards: The following standards shall apply to a variance:

1. The board of appeals may grant a variance only if:
 - a. Literal enforcement of this title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this title.
 - b. There are special circumstances attached to the property that do not generally apply to other properties in the same zone.
 - c. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.
 - d. The variance will not substantially affect the general plan and will not be contrary to the public interest.
 - e. The spirit of this title is observed and substantial justice done.
2. The board of appeals may find an unreasonable hardship exists only if the alleged hardship is located on or associated with the property for

which the variance is sought and comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood. The board of appeals may not find an unreasonable hardship exists if the hardship is self-imposed or economic.

3. The board of appeals may find that special circumstances attached to the property exist only if the special circumstances relate to the hardship complained of and deprive the property of privileges granted to other properties in the same zone.
4. An applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
5. A use variance may not be granted.
6. In granting a variance, the board of appeals may impose additional requirements on an applicant that will mitigate any harmful effects of the variance, or serve the purpose of the standard or requirement that is waived or modified.
7. A variance more restrictive than that requested by an applicant may be authorized when the record supports the applicant's right to some relief but not to the extent requested.

F. Appeal Of Decision: Any person adversely affected by a final decision of the board of appeals regarding a variance may, within thirty (30) days after such decision, appeal to the district court as provided in section 10-9a-801 of the Utah code, as amended.

G. Effect Of Approval: A variance shall not authorize the establishment of any use nor the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing, and processing of applications for any approvals or permits that may be required by this title or other applicable provisions of this code.

H. Amendments: The procedure for amending any variance decision shall be the same as the original procedure set forth in this section.

I. Expiration: A variance shall not expire but shall run with the land.

Adopted by Ord. 2007-02 on 7/11/2007

Chapter 6: NONCONFORMITIES

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10-6-3: CHANGE IN NONCONFORMING STATUS

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10-6-1: PURPOSE

The purpose of this chapter is to establish regulations governing legally established uses, structures, lots, and other circumstances that do not conform to applicable requirements of this title. The intent of this chapter is to control expansion of nonconforming conditions while recognizing the interests of property owners.

Adopted by Ord. 2007-02 on 7/11/2007

10-6-2: SCOPE

The provisions of this chapter shall apply to any use, lot, structure, or other circumstance governed by this title which was legally established but does not conform to the requirements of this title. Any nonconforming use or lot, noncomplying structure, or other nonconformity may be continued only to the extent it was lawfully created, and as provided in this chapter. Any use, lot, structure, or other nonconformity not authorized under a previously existing zoning ordinance, or which was illegal under such ordinance, shall remain unauthorized and illegal unless expressly authorized or permitted by the provisions of this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-6-3: CHANGE IN NONCONFORMING STATUS

A nonconforming use, lot, noncomplying structure, or other nonconformity may not be changed except in conformance with the provisions of this title or as authorized by the board of appeals. To the extent any nonconforming use, lot, noncomplying structure, or other nonconformity becomes conforming, it shall not be changed back to the previously existing nonconforming condition.

Adopted by Ord. 2007-02 on 7/11/2007

10-6-4: NONCONFORMING USES

- A. Continuation: A nonconforming use of a complying structure, or noncomplying structure legally existing when such use became prohibited, may be continued. A vacant structure may be occupied by a use for which the structure was designed or intended if so occupied within a period of one year after the use became nonconforming.
- B. Expansion Within A Conforming Building: A nonconforming use existing within a portion of a complying building may be expanded to include the entire floor area of such building provided such expansion:
 1. Does not include any structural alteration;
 2. Creates no noise, odor, or vibration; and
 3. Otherwise conforms to the requirements of this title.
- C. Nonconforming Use Of Open Land: A nonconforming use of open land may be continued provided such nonconforming use shall not be expanded or extended into any other portion of a conforming building or open land, and no structures, additions, alterations, or enlargements thereto shall be made thereon, except those required by law.
- D. Expansion Of Outdoor Nonconforming Use: A nonconforming use of a lot where the principal use is not enclosed within a building, such as a salvage yard or a motor vehicle sales lot, shall not be expanded except in conformity with the requirements of this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-6-5: NONCONFORMING LOTS

- A. Continuation: A nonconforming lot may continue to be occupied and used although it may not conform in every respect with the dimensional requirements of this title, subject to the provisions of this chapter.
- B. Lot With Building: If a nonconforming lot contains a building legally established before the effective date of this title, then the owner may continue the then existing use of such building and may expand the building in any way that does not increase the degree of nonconformity. An increase in structure size shall not be deemed to increase the degree of nonconformity of the lot unless the structure increases any encroachment into a required setback. Remodeling of a building within an existing footprint or expansion in compliance with this section shall not require a variance to lot requirements but shall be reviewed by the zoning administrator as though the lot conforms to the requirements of this title.
- C. Accessory Building: An accessory building customarily incidental to a dwelling may be constructed on a nonconforming lot provided:
 - 1. The accessory building does not exceed one thousand (1,000) square feet in floor area nor fifteen feet (15') in height;
 - 2. The use of the lot is primarily residential; and
 - 3. The accessory building conforms to all other requirements pertaining to yard setbacks, fire protection, and building codes.

Adopted by Ord. 2007-02 on 7/11/2007

10-6-6: NONCOMPLYING STRUCTURES

- A. Continuation: A noncomplying structure may be continued so long as no additions or enlargements are made thereto and no structural alterations are made therein, except as permitted by this section or as may be required by law. If a noncomplying structure is removed from the lot where it was located, each future structure on such lot shall conform to the provisions of this title.
- B. Maintenance And Repair: A noncomplying structure may be maintained. Repairs and structural alterations may be made to a nonconforming structure within the existing footprint thereof provided the degree of nonconformity is not increased.
- C. Enlargement And Expansion: Any expansion or enlargement of a noncomplying structure that increases the degree of nonconformance is prohibited except as provided in this subsection.
 - 1. The initial determination of whether a proposed expansion increases the degree of nonconformity shall be made by the zoning administrator.
 - 2. A structure which is noncomplying as to height, area, or yard requirements may be enlarged upon authorization by the board of appeals provided the board, after notice and a hearing, finds the enlargement to be compatible with adjoining property and not detrimental to the community, as determined by the effect of the enlargement on traffic, value of adjacent and nearby properties, and the availability of adequate public facilities and services.
- D. Relocation: If a noncomplying structure is relocated within the city, it shall be placed only in a location where it fully conforms with the requirements of this title.
- E. Alteration Where Parking Insufficient: A building which is complying except for sufficient automobile parking, as required by this title, may be altered or enlarged provided additional automobile parking space is supplied to meet the requirements of this title for the noncomplying portion of the old structure and the alteration or enlargement.
- F. Restoration: A noncomplying structure damaged by fire, wind, earthquake, or other calamity or act of God or the public enemy may be restored as it existed previously and its use may be continued so long as restoration is started within six (6) months and is diligently pursued to completion.
- G. Unsafe Structures: Nothing in this section shall be construed to permit the continuing use of a structure found to be in violation of any applicable life safety or health code. The right to continue use of a noncomplying structure shall be subject to the life safety requirements of applicable housing, building, health, and other life safety codes.

Adopted by Ord. 2007-02 on 7/11/2007

10-6-7: OTHER NONCONFORMITIES

This chapter shall apply to any other circumstance which does not conform to the requirements of this title including, but not limited to, fence height or location; lack of buffers or screening; lack of or inadequate landscaping; lack of or inadequate off street parking; and any other nonconformity not addressed by sections [10-6-4](#), [10-6-5](#), and [10-6-6](#) of this chapter.

- A. Nonconforming Development With Approved Site Plan: Nonconforming development that is consistent with a site plan approved before the effective date of this title shall be deemed to be in conformance with this title to the extent it is consistent with the approved site plan and to the extent such plan or conditions imposed thereon directly address the specific issue involved in a determination of conformity. A nonconformity other than one of those enumerated in sections [10-6-4](#), [10-6-5](#), and [10-6-6](#) of this chapter shall be brought into conformance upon the occurrence of any one of the following:
 - 1. Any increase of more than thirty percent (30%) in floor area or fifty percent (50%) of the value of the building or premises.
 - 2. For a lot located in a commercial or industrial zone, any change in use to a more intensive use when a new certificate of occupancy is required.
- B. Compliance: Because nonconformities addressed in this section involve less investment and are more easily corrected than those addressed in sections [10-6-4](#), [10-6-5](#), and [10-6-6](#) of this chapter, the intent of the city is to eliminate such nonconformities as quickly as practicable. The extent of such nonconformities shall not be increased.

Adopted by Ord. 2007-02 on 7/11/2007

10-6-8: NONCONFORMITY CREATED BY PUBLIC ACTION

When area or setbacks of a legally created lot are reduced as the result of conveyance to a federal, state or local government for a public purpose and the remaining area or setback is at least seventy five percent (75%) of the required minimum in the zone where it is located, the lot shall be deemed to be in compliance with the minimum lot size and setback standards of this title without any need for a variance.

Adopted by Ord. 2007-02 on 7/11/2007

10-6-9: ABANDONMENT

Any nonconforming use, noncomplying structure, or other nonconformity which is not thus occupied or so used for a continuous period of one year shall be deemed abandoned and shall not thereafter be reoccupied or used except in a manner that conforms to the requirements of this title.

- A. Presumption Of Abandonment: A nonconforming use, noncomplying structure, or other nonconformity shall be presumed abandoned when any of the following occurs:

1. A structure or portion thereof occupied by a nonconforming use becomes vacant and remains unoccupied for a continuous period of one year;
 2. The owner has in writing or by public statement indicated an intent to abandon the use, structure, or other nonconformity;
 3. A less intensive use, as determined by the zoning administrator, has replaced the original nonconforming use;
 4. The owner has voluntarily demolished or physically changed a majority of the structure without prior written agreement with the city regarding an extension of the nonconforming use; or
 5. The structure has been removed through applicable procedures for the condemnation of unsafe structures.
- B. Overcoming Presumption Of Abandonment: A presumption of abandonment may be rebutted upon evidence presented by the owner showing no intent to abandon the use, structure, or other nonconformity. Such evidence may include proof that during the alleged period of abandonment the owner has done either of the following:
1. Maintained the lot and structure, if any, in accordance with the building code; or
 2. Has actively and continuously marketed the lot or structure for sale or lease.

Adopted by Ord. 2007-02 on 7/11/2007

10-6-10: DETERMINATION OF NONCONFORMING STATUS

In all cases, the property owner shall have the burden of establishing that a nonconforming use, lot, noncomplying structure, or other nonconformity lawfully exists under this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-6-11: NONCONFORMING USES DETRIMENTAL TO HEALTH AND SAFETY

No provision of this chapter shall be construed to allow the continuance of any nonconforming use or noncomplying structure when it is detrimental to the health, safety, or welfare of the public.

Adopted by Ord. 2007-02 on 7/11/2007

10-6-12: EXTENSION OF TIME FOR RECOVERY OF INVESTMENT

The zoning administrator may suspend any requirement that a nonconforming use, lot, noncomplying structure, or other nonconformity come into compliance with the provisions of this title if the owner of the affected property demonstrates that the amount of investment in the nonconforming use, lot, noncomplying structure, or other nonconformity has not been recovered or amortized.

- A. Written Request For Extension Required: A request for an extension of time needed to recover an investment in an affected property shall be submitted in writing to the zoning administrator.
- B. Information Required: The following information shall accompany the request:
1. The amount of the owner's investment in the use, structure, lot, or other nonconformity from the time it became nonconforming;
 2. The amount of such investment that has been realized to date and an estimate of the amounts that will be realized on the date the time limit expires; and
 3. Evidence of any lease or purchase obligations undertaken in reliance on any previously issued licenses or permits applying to the use, structure, lot, or other nonconformity, including any contingency clauses therein permitting termination of such lease.

Adopted by Ord. 2007-02 on 7/11/2007

10-6-13: BILLBOARDS EXEMPT

The provisions of this chapter shall not apply to billboards. Nonconforming billboards shall be terminated in accordance with applicable provisions of sections 10-9a-512 and 513 of the Utah code, as amended. In the event such provisions are repealed, nonconforming billboards shall be subject to the provisions of this chapter.

Adopted by Ord. 2007-02 on 7/11/2007

10-6-14: APPEAL

Any person adversely affected by a decision of the zoning administrator or other official enforcing the provisions of this chapter may appeal for relief therefrom to the board of appeals as provided in this title.

Adopted by Ord. 2007-02 on 7/11/2007

Chapter 7: ENFORCEMENT

- 10-7-1: PURPOSE
- 10-7-2: SCOPE
- 10-7-3: ENFORCEMENT AUTHORITY
- 10-7-4: ISSUANCE OF PERMITS
- 10-7-5: TYPES OF VIOLATIONS
- 10-7-6: REMEDIES
- 10-7-7: NONCONFORMING USE AS AFFIRMATIVE DEFENSE
- 10-7-8: ENFORCEMENT PROCEDURES
- 10-7-9: OTHER ENFORCEMENT AUTHORITY
- 10-7-10: APPEAL

10-7-1: PURPOSE

The purpose of this chapter is to establish the remedies, penalties, and procedures for enforcement of this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-7-2: SCOPE

The remedies, penalties, procedures, and other matters set forth in this chapter shall apply to any violation of the provisions of this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-7-3: ENFORCEMENT AUTHORITY

This title shall be enforced by the zoning administrator.

Adopted by Ord. 2007-02 on 7/11/2007

10-7-4: ISSUANCE OF PERMITS

Every official and employee of the city who is vested with the duty or authority to issue permits shall conform to the provisions of this title and shall issue no permit, certificate, or license for a use, building, or purpose in conflict with the provisions of this title. Any permit, certificate, or license issued in conflict with the provisions of this title, intentionally or otherwise, or which issued upon a false statement of fact material to the issuance of the permit shall be void.

Adopted by Ord. 2007-02 on 7/11/2007

10-7-5: TYPES OF VIOLATIONS

It shall be unlawful for any person to violate any provision of this title, cause the violation of any provision of this title, or fail or refuse to do some act required under this title, including any of the following acts:

- A. Transfer Or Sale Of Land Without Subdivision Approval: To transfer or sell any land in a subdivision before a subdivision plat or record of survey has been approved and recorded. The description by metes and bounds in an instrument of transfer or other documents used in the process of selling or transferring does not exempt the transaction from being a violation or from the penalties or remedies provided in this chapter.
- B. Development Or Use Without Permit: To engage in any development, use, construction, remodeling, or other activity of any nature upon the land and improvements thereon subject to the jurisdiction of the city without all of the required permits, approvals, certificates, and other forms of authorization required by this title or other city ordinance in order to conduct or engage in such activity.
- C. Development Or Use Inconsistent With Permit: To engage in any development, use, construction, remodeling, or other activity which is contrary to the terms and conditions of any permit, approval, certificate, or other form of authorization required to engage in such activity.
- D. Development Or Use Inconsistent With Conditions Of Approval: To violate, by act or omission, any lawful term, condition, or qualification placed by the city council, planning commission, board of appeals or officer of the city, as applicable, upon a required permit, certificate, or other form of authorization granted by the city council, planning commission, board of appeals or other city officer allowing the use, development, or other activity upon land or improvements thereon.
- E. Development Or Use Inconsistent With This Title: To erect, construct, reconstruct, remodel, alter, maintain, move, or use any building or structure, or to use any land in violation of this title.
- F. Making Lot Or Setback Nonconforming: To reduce or diminish any lot area so that setbacks or open spaces shall be smaller than prescribed by this title and the applicable final plat or plan.
- G. Increasing Intensity Of Use: To increase the intensity of use of any land or structure, except in accordance with the procedural and substantive requirements of this title.
- H. Removing, Defacing, Or Obscuring Notice: To remove, deface, obscure, or otherwise interfere with any notice required by this title.
- I. Continuing Violation: To continue any of the above violations. Each day a violation occurs after a citation is issued shall constitute a separate offense.

Adopted by Ord. 2007-02 on 7/11/2007

10-7-6: REMEDIES

Any violation of the provisions of this title shall be subject to the enforcement remedies and penalties provided by this chapter and by Utah law, including any of the following:

- A. Withhold Permits: The city may deny or withhold any permit, certificate, or other form of authorization pertaining to any land or improvements when an uncorrected violation exists on such land pursuant to this title or to a condition or qualification of a permit, certificate, approval or other authorization previously granted by the city council, planning commission, board of appeals, or other city officer. The city may, instead of withholding or denying an authorization, grant such authorization subject to the condition that the violation be corrected. The provisions of this section shall apply regardless of whether the original applicant or current owner is responsible for the violation in question.
- B. Revoke Permits: A permit may be revoked when the zoning administrator determines that actions taken thereunder do not conform to plans, specifications, or conditions of the permit; that the same was procured by false representation or was issued by mistake; or that any provision of this title is being violated.
 1. Written notice of such revocation shall be served upon the owner, the owner's agent or contractor, or upon any person employed at the site of the building or structure for which such permit was issued, or shall be posted in a prominent location; and, thereafter, no such construction shall proceed.
 2. Upon revocation of a building or other permit issued by mistake, the owner shall meet with the zoning administrator to determine the nature of the mistake.
 - a. When plans are in conflict with an ordinance, resolution, regulation, or other applicable requirement, and when construction has not progressed to a stage where modification of the plans would require substantial alteration of the structures in place, the plans shall be modified to conform with applicable requirements.
 - b. When construction has progressed to a stage where compliance would require substantial alteration of construction in place, the owner shall meet with the mayor to negotiate possible changes in the plans which would more nearly conform to applicable requirements.
 - c. When a mistake has been made calculating the fee for any permit, the proper fee shall be charged.
- C. Stop Work: In accordance with its power to stop work under the building code, the city may stop work, with or without revoking permits, on any building or structure on any land on which exists an uncorrected violation of a provision of this title or permit or other form of authorization issued hereunder.
- D. Revoke Plan Or Other Approvals: Where a violation of this title involves failure to comply with approved plans or a condition upon which plan approval was subject, the city may, after notice to the applicant and other known parties in interest (including any holders of building permits affected) and after a hearing:

1. Revoke the plan or other approval, or
 2. Condition its continuance on strict compliance, the provision of security, or such other conditions as the city may reasonably impose.
- E. Remove Signs: When a sign is illegally located within a public right of way, on any city owned property, or in the case of an emergency or an identified hazard, the zoning administrator may, without notice, cause the immediate removal of such sign.
 - F. Injunctive Relief: The city may seek an injunction or other equitable relief in the district court to stop any violation of this title, or a permit, certificate, or other form of authorization granted hereunder. The city need only to establish a violation of this title to obtain an injunction.
 - G. Abatement: The city may seek a court order from the district court in the nature of mandamus, abatement, or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition which existed prior to the violation.
 - H. Penalty: Any person violating, causing or permitting a violation of the provisions of this title shall be guilty of a class C misdemeanor. Such person shall be deemed to be guilty of a separate offense for each and every day, after a citation is issued, during which any portion of any violation of this title is committed, continues, or permitted by such person. Violation of any of the provisions of this title shall upon conviction be punishable as a class C misdemeanor.
 - I. Other Remedies: The city shall have such other remedies as are and as may be from time to time provided by Utah law or city ordinance for the violation of any provision of this title.
 - J. Remedies Cumulative: These remedies shall be cumulative.

Adopted by Ord. 2007-02 on 7/11/2007

10-7-7: NONCONFORMING USE AS AFFIRMATIVE DEFENSE

It shall be an affirmative defense to the enforcement of the provisions of this title that the action complained of is a legally nonconforming lot or use, noncomplying structure, or other nonconformity as set forth in [chapter 6](#) of this title. The property owner shall have the burden of establishing that a nonconforming lot, use or noncomplying structure lawfully exists under this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-7-8: ENFORCEMENT PROCEDURES

- A. Inspection Of Buildings, Structures, And Land Uses: The zoning administrator is authorized to inspect all buildings and structures in the course of construction, modification, or repair and to inspect land uses to determine compliance with the provisions of this title.
- B. Right Of Entry: Authorized city personnel shall have the right to enter any building for the purpose of determining compliance with the provisions of this title. Such right of entry shall be exercised only at a reasonable hour. In no case shall entry be made to any building in the absence of the owner or tenant thereof without consent of the owner or tenant, or a written order of a court of competent jurisdiction.
- C. Violation: The zoning administrator shall investigate any purported violation of this title.
- D. Interference With Enforcement Personnel: It shall be unlawful for any person to interfere with lawful enforcement activities.
- E. Notice: In the case of violations not involving continuing construction or development, or any emergency situation, the zoning administrator shall give written notice of the nature of the violation to the owner of the land and to any person, known to the city, who is a party to any relevant permit, certificate, or approval. The persons receiving such notice shall have thirty (30) days to correct the violation before further enforcement action.
- F. Immediate Enforcement: In the case of a violation involving either continuing construction or development, or an emergency situation, as reasonably determined by the zoning administrator, the city may use the enforcement powers and remedies available to it under this chapter without prior notice. In such case, the zoning administrator shall send the notice to the same parties set forth in subsection E of this section simultaneously with the beginning of enforcement action.
- G. Enforcement And Abatement: Any building or structure set up, erected, constructed, altered, enlarged, converted, moved, or maintained; or any land, building, or premises used contrary to the provisions of this title is hereby declared to be unlawful and a public nuisance. The city attorney may commence action or proceedings for the abatement, removal, and injunction thereof in the manner provided by law. The city attorney may also take such other steps and may apply to such court as may have jurisdiction to grant such relief as will abate and remove such building or structure, and restrain and enjoin any person, firm, or corporation from setting up, erecting, building, maintaining, or using any building, structure, or property contrary to the provisions of this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-7-9: OTHER ENFORCEMENT AUTHORITY

- A. Utah Law: In addition to the enforcement powers specified in this chapter, the city may exercise any enforcement powers granted by Utah law.
- B. Continuation: Nothing in this title shall prohibit the continuation of previous enforcement actions, undertaken by the city pursuant to previous and valid resolutions, ordinances, and laws.

Adopted by Ord. 2007-02 on 7/11/2007

10-7-10: APPEAL

Any person adversely affected by a decision of the zoning administrator or other official enforcing the provisions of this chapter may appeal for relief therefrom to the board of appeals as provided in this title.

Adopted by Ord. 2007-02 on 7/11/2007

Chapter 8: REVIEW OF CONSTITUTIONAL TAKING ISSUES

- [10-8-1: PURPOSE](#)
- [10-8-2: DEFINITION](#)
- [10-8-3: GUIDELINES](#)
- [10-8-4: ANALYSIS](#)
- [10-8-5: APPEAL](#)
- [10-8-6: LIMITATIONS](#)

10-8-1: PURPOSE

The purpose of this chapter is to provide advisory guidelines to assist the city in identifying actions that may involve physical taking or exaction of private real property and may have constitutional taking issues.

Adopted by Ord. 2007-02 on 7/11/2007

10-8-2: DEFINITION

As used herein, "constitutional taking issues" means actions involving the physical or regulatory taking of private real property by the city that may require compensation to the property owner under:

- A. The fifth or fourteenth amendment of the constitution of the United States;
- B. Article I, section 22 of the Utah constitution; or
- C. Any recent court ruling governing the physical or regulatory taking of private real property by a governmental entity.

Adopted by Ord. 2007-02 on 7/11/2007

10-8-3: GUIDELINES

The following guidelines shall be considered when city action may result in the physical or regulatory taking of private real property. These guidelines shall be used to determine and identify whether a proposed city action raises constitutional taking issues.

- A. Will city action require a property owner to suffer a permanent physical invasion of the owner's property?
- B. Will city action completely deprive a property owner of all economically beneficial use of the property?
- C. Will city action require a property owner to transfer property to the city when the requirement:
 - 1. Does not have an essential link (nexus) to a legitimate governmental interest; or
 - 2. Is not roughly proportional, in both nature and extent, to the problem which the requirement is intended to address?
- D. Will city action have a severe impact on the property owner's economic interest?
- E. Will city action deprive the owner of a fundamental attribute of property ownership?

Adopted by Ord. 2007-02 on 7/11/2007

10-8-4: ANALYSIS

If city action may involve constitutional taking issues, the mayor, upon request by an affected property owner, shall review the action to determine whether other city action should be taken. In reviewing proposed action, the guidelines set forth in section [10-8-3](#) of this chapter shall be considered. In addition the mayor shall consider:

- A. The effect city action may have on the use or value of the property involved.
- B. The likelihood that city action may result in a constitutional taking.
- C. Any alternatives to the proposed action that would fulfill the city's lawful objectives and reduce the risk of a constitutional taking.
- D. The cost to the city for payment of compensation if a taking is found.

Adopted by Ord. 2007-02 on 7/11/2007

10-8-5: APPEAL

Any property owner whose interest in the property is subject to an alleged taking by the city, pursuant to a final decision of the mayor, may appeal the mayor's decision to the city council by filing a written notice of appeal and statement of the grounds for the appeal in the city recorder's office within thirty (30) days from the date of the mayor's decision. The city council shall review all evidence regarding the appeal and shall render a written decision, including findings, within thirty (30) days from the date when the appeal was filed.

Adopted by Ord. 2007-02 on 7/11/2007

10-8-6: LIMITATIONS

The guidelines set forth herein shall be advisory only and shall not be construed to expand or limit the scope of the city's liability for a constitutional taking. The city shall have no legal liability to any person, firm, or entity of any nature whatsoever and a court may not impose liability upon the city for failure to comply with the provisions of this chapter.

Adopted by Ord. 2007-02 on 7/11/2007

Chapter 9: ZONES ESTABLISHED

10-9-1: ZONES OF CITY ESTABLISHED

10-9-2: ZONE PURPOSES

10-9-3: OFFICIAL ZONING MAP

10-9-4: RULES FOR LOCATING ZONE BOUNDARIES

10-9-5: CLARIFICATION OF ZONING

10-9-6: NEWLY ANNEXED TERRITORIES

10-9-1: ZONES OF CITY ESTABLISHED

In order to accomplish the purposes of the general plan and this title, the following zones and their accompanying abbreviations are hereby established as follows and the territory of the city is divided into such zones as shown on the official zoning map:

A.	Agricultural zones:	
	Agricultural 20	A-20
	Agricultural 5	A-5
B.	Residential zones:	
	Rural residential	RR
	Low density residential	R1
	Medium density residential	R2

C.	Commercial zones:	
	General commercial	C
	Planned commercial	PC
D.	Industrial zone:	
	Industrial	I
E.	Public facility zone:	
	Public facilities	PF
F.	Special purpose and overlay zones:	
	Sensitive lands overlay	SLO

Adopted by Ord. 2007-02 on 7/11/2007

10-9-2: ZONE PURPOSES

In addition to the general purposes of this title as set forth in section [10-1-3](#) of this title, the purpose of each zone is set forth respectively in chapters 10 to 16 of this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-9-3: OFFICIAL ZONING MAP

- A. Zones: The location and boundaries of the zones described in this chapter, including subsequent amendments, shall be shown on an official zoning map, entitled "City Of Honeyville Official Zoning Map". The official zoning map, including all boundaries, notations, and other data shown thereon, is hereby adopted by this reference as if set forth in its entirety. The territory within the city shall be subject to the land use regulations set forth for such zones as shown upon the official zoning map.
- B. Amendments: Amendments to the boundaries of a specific zone shown on the official zoning map shall be accomplished in accordance with the provisions set forth in section [10-5-7](#) of this title.
- C. Map Updates: The official zoning map shall be updated as soon as possible after a map amendment is adopted by the city council. Upon entering any such amendment on the map, the zoning administrator shall note on the map the date of the revision.
- D. Filing Of Ordinance And Map: The ordinance codified in this title and the official zoning map shall be filed in the custody of the city recorder and may be examined by the public at any time during the city's regular business hours.

Adopted by Ord. 2007-02 on 7/11/2007

10-9-4: RULES FOR LOCATING ZONE BOUNDARIES

- A. Applicability: Where uncertainty exists as to the boundary of any zone shown on the official zoning map, the provisions of this section shall apply to determine the location of such boundary.
- B. Centerlines And Property Lines: When a zone boundary is indicated as being approximately upon the centerline of a street, alley or block, or along a property line; then, unless otherwise definitely indicated on the official zoning map, the centerline of such street, alley or block or such property line, shall be construed to be the boundary of such zone.
- C. Waterways, Park And Public Land: When a zone boundary is indicated as being approximately at the line of any river, irrigation canal or other waterway, public park or other public land, or any section line, then the center of the stream, canal or waterway, or the railroad right of way, or the boundary line of the public land or section line shall be deemed to be the boundary of the zone.
- D. Lot, Block, And Tract Lines: Zone boundaries indicated as approximately following platted lot lines, or block or parcel tract boundaries shall be interpreted as following such lines.
- E. Street Vacations: When a public road, street, or alley is officially vacated, such property shall have the same zoning as the adjacent property. In the event vacated property is located between two (2) zones, each zone shall extend to the centerline of the vacated right of way.
- F. Use Of Map Scale: Where such zone boundaries cannot be determined by the above rules, their location may be determined by the use of the scale appearing upon the official zoning map.
- G. Clarification By Zoning Administrator: If application of the above rules does not clarify the location of a zone boundary, the zoning administrator shall determine the proper boundary subject to appeal to the board of appeals as provided in this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-9-5: CLARIFICATION OF ZONING

- A. Ambiguous Zone: Any property which is not clearly zoned on the official zoning map shall be deemed to be in the most restrictive adjacent zone.
- B. Ambiguous Use: If ambiguity arises concerning the classification of a particular use within the meaning and intent of this title, or with respect to matters of height, yard requirements, area requirements, or other property development standards, the zoning administrator shall determine the proper use or development standard, subject to appeal to the board of appeals as provided in this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-9-6: NEWLY ANNEXED TERRITORIES

Territory which is annexed shall be deemed to be zoned A-5 immediately upon annexation or as otherwise expressly determined by the city council at the time of annexation.

Adopted by Ord. 2007-02 on 7/11/2007

Chapter 10: AGRICULTURAL ZONES

[10-10-1: PURPOSE](#)

[10-10-2: SCOPE](#)

[10-10-3: USES ALLOWED](#)

[10-10-4: DEVELOPMENT STANDARDS](#)

[10-10-5: REGULATIONS OF GENERAL APPLICABILITY](#)

[10-10-6: REGULATIONS FOR SPECIFIC USES](#)
[10-10-7: SPECIAL REGULATIONS](#)
[10-10-8: TABLES](#)

10-10-1: PURPOSE

Agricultural zones promote and preserve conditions favorable to agriculture and are intended to preserve and protect agricultural lands and related activities, permit activities normally and necessarily related to agricultural production, and prohibit land uses that may undermine continued agricultural activity.

- A. Agricultural 20 Zone: The agricultural 20 (A-20) zone is intended to be applied to land which is predominantly devoted to agricultural use and which is intended to remain as such for the foreseeable future.
- B. Agricultural 5 Zone: The agricultural 5 (A-5) zone is intended to be applied to land historically used for agricultural purposes but which may change due to its adjacency to residentially zoned areas that may be expanded for development.

Adopted by Ord. 2007-02 on 7/11/2007

10-10-2: SCOPE

The provisions of this chapter shall apply to any real property located in an agricultural zone as shown on the official zoning map. No building, structure or real property shall be used and no building or structure shall be hereafter erected, structurally or substantially altered, or enlarged except as set forth in this chapter. Such requirements shall not be construed to prohibit or limit other applicable provisions of this title, this code, or other laws.

Adopted by Ord. 2007-02 on 7/11/2007

10-10-3: USES ALLOWED

- A. Permitted And Conditional Uses: Permitted and conditional uses allowed within agricultural zones shall be as set forth in table [10-10-1](#) of section [10-10-8](#) of this chapter. Permitted and conditional uses are indicated by a "P" or "C", respectively, in the appropriate column. Uses not permitted are indicated by "N". Any use not shown on table [10-10-1](#) of section [10-10-8](#) of this chapter shall be prohibited unless the zoning administrator determines the use is substantially the same as a permitted or conditional use based upon an administrative interpretation as provided in section [10-5-20](#) of this title.
- B. Accessory Uses: Permitted and conditional uses set forth in table [10-10-1](#) of section [10-10-8](#) of this chapter shall be deemed to include accessory uses and activities that are necessarily and customarily associated with and incidental and subordinate to such uses.
 - 1. Accessory uses shall be subject to the same regulations that apply to permitted and conditional uses in the same zone except as otherwise expressly provided in this title.
 - 2. No accessory use, building, or structure shall be allowed on a lot unless a permitted or conditional use has been established.

Adopted by Ord. 2007-02 on 7/11/2007

10-10-4: DEVELOPMENT STANDARDS

Development standards within agricultural zones shall be as set forth in table [10-10-2](#) of section [10-10-8](#) of this chapter.

Adopted by Ord. 2007-02 on 7/11/2007

10-10-5: REGULATIONS OF GENERAL APPLICABILITY

The use and development of real property in agricultural zones shall conform to the development standards as set forth in the following chapters of this title:

- A. Existing conditions inventory: See [chapter 17](#) of this title.
- B. Landscaping and screening: See [chapter 18](#) of this title.
- C. Off street parking: See [chapter 19](#) of this title.
- D. Outdoor lighting: See [chapter 20](#) of this title.
- E. Signs: See [chapter 21](#) of this title.
- F. Supplementary development standards: See [chapter 22](#) of this title.
- G. Water source protection: See [chapter 23](#) of this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-10-6: REGULATIONS FOR SPECIFIC USES

To the extent that use and development of real property includes any matter encompassed by a regulation for a specific use as set forth in this title, such regulation shall apply in addition to the requirements of this chapter and shall prevail over any conflicting provision of this chapter.

Adopted by Ord. 2007-02 on 7/11/2007

10-10-7: SPECIAL REGULATIONS

- A. Increased Height: Notwithstanding the height limitations shown on table [10-10-2](#) of section [10-10-8](#) of this chapter, a greater building height may be allowed pursuant to a conditional use permit.
- B. One Acre Lots Abutting An Existing Or Proposed Public Street:
 - 1. Notwithstanding the twenty (20) acre minimum lot area requirement in an A-20 zone, as set forth on table [10-10-2](#) of section [10-10-8](#) of this chapter, one acre or larger lots may be subdivided from an existing lot located in the agricultural (A) zone so long as:
 - a. Any new lot is subdivided from a legally created lot of record;
 - b. The remainder of the original lot and each new lot abuts an existing or proposed public street for at least the distance shown below, based on lot size, as follows:
 - (1) Up to five (5) acres: Two hundred feet (200'); and
 - (2) Larger than five (5) acres but smaller than twenty (20) acres: Three hundred feet (300'); and

- (3) Twenty (20) acres or larger: Five hundred feet (500');
- c. Each newly created lot conforms to the development standards of the RR, A-5, or A-20 zone, as the case may be, based on lot size, as follows:
- (1) Up to five (5) acres: RR zone standards;
 - (2) Larger than five (5) acres but smaller than twenty (20) acres: A-5 zone standards; and
 - (3) Twenty (20) acres or larger: A-20 zone standards;
- d. Total lot density in the subdivision does not exceed two-tenths (0.2) lot per acre, calculated as shown in subsection B3 of this section; and
- e. After completion of the subdivision, the remainder of the original lot is at least twenty (20) acres in size, excluding streets and rights of way.
2. The remainder of the original lot shall be deemed one lot subject to the development standards of the A-20 zone and shall not be further subdivided so long as the subdivision remains in the A-20 zone.
3. The calculation of density within the subdivision shall include the remainder lot and shall be calculated as shown in the following example:

50 acres of land x 0.2 lot per acre = 10 total lots

9 lots shall be at least 1 acre in size and 1 lot shall be at least 20 acres in size, excluding streets and rights of way

Adopted by Ord. 2009-03 on 4/8/2009

10-10-8: TABLES

TABLE 10-10-1

PERMITTED AND CONDITIONAL USES ALLOWED IN AGRICULTURAL ZONES

Use	Zone	
	A-5	A-20
Agricultural uses:		
Agricultural business	C	C
Agricultural industry	C	C
Agriculture	P	P
Animal specialties	C	C
Animals and fowl for recreation and family food production	P	P
Stable, private	C	C
Stable, public	C	C
Residential uses:		
Dwelling, single-family with accessory apartment	C	C
Dwelling, temporary ¹	C	C
Guesthouse	C	C
Residential facility for elderly persons ²	P	P
Residential facility for persons with a disability ²	P	P
Public and civic uses:		
Auditorium or stadium	C	C
Golf course	C	C
School, charter	P	P
Utility, minor	P	P
Utility substation	C	C
Commercial uses:		
Agricultural sales and service	C	C
Animal hospital	C	C
Bed and breakfast	C	C
Family child daycare facility ³	P	P
Family child residential certificate care facility ³	P	P
Family group child daycare facility ³	C	C
Kennel	C	C
Produce stand	C	C
Veterinary service	C	C

Wireless telecommunication facility	C	C
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Notes:

1. Temporary dwelling must be removed within 30 days after a certificate of occupancy is issued for a permanent dwelling.
2. See chapter 27 of this title.
3. See chapter 25 of this title.

TABLE 10-10-2
DEVELOPMENT STANDARDS IN
AGRICULTURAL ZONES

Development	Zone	Zone
	A-5	A-20
Lots standards:		
Minimum lot area	5 acres	20 acres or 1 acre, when abutting an existing or proposed city street (see subsection 10-10-7B of this chapter)
Minimum lot width	300 feet	500 feet
Building standards:		
Maximum height, accessory building	45 feet	45 feet
Maximum height, main building ¹	45 feet	45 feet
Maximum stories	3.5 stories	3.5 stories
Setback standards - front yard:		
Any buildings ²	35 feet	35 feet
Setback standards - rear yard:		
Accessory building (allowed only when more than 20 feet behind main building)	3 feet minimum, if roof drains only on the subject property and building code requirements are met plus 1 foot increased setback for each 6 feet of building height above 18 feet.	3 feet minimum, if roof drains only on the subject property and building code requirements are met plus 1 foot increased setback for each 6 feet of building height above 18 feet.
Main building	20 feet	20 feet
Setback standards - street side yard:		
Accessory building	Not permitted	Not permitted
Main building	35 feet	35 feet
Main building on corner lot with yard of another lot	35 feet	35 feet
Setback standards - interior side yard:		
Accessory building	15 feet, when left behind main building	15 feet, when left behind main building
Main building	20 feet	20 feet

Notes:

1. Except as otherwise permitted by subsection [10-10-7A](#) of this chapter.
2. Except as modified by the provisions of subsection [10-22-14E](#), "Setback Measurement", of this title

Adopted by Ord. 2007-02 on 7/11/2007

Chapter 11: RESIDENTIAL ZONES

- [10-11-1: PURPOSE](#)
- [10-11-2: SCOPE](#)
- [10-11-3: USES ALLOWED](#)
- [10-11-4: DEVELOPMENT STANDARDS](#)
- [10-11-5: REGULATIONS OF GENERAL APPLICABILITY](#)
- [10-11-6: REGULATIONS FOR SPECIFIC USES](#)
- [10-11-7: SPECIAL REGULATIONS](#)
- [10-11-8: TABLES](#)

10-11-1: PURPOSE

Residential zones allow a wide range of residential land uses at various densities. These zones protect the stability of neighborhoods and encourage, collectively, diverse types of desirable new residential development and protect existing residential uses.

- A. Rural Residential Zone: The purpose of the rural residential (RR) zone is to provide for and protect residential development in a semirural environment. The keeping of limited numbers of livestock and the raising of crops can be considered a normal activity in the rural residential zone.

- B. Low Density Residential Zone: The purpose of the low density residential (R1) zone is to encourage, maintain and protect low density residential neighborhoods. Other uses which are compatible with and not detrimental to family oriented residential neighborhoods may be allowed as a permitted or conditional use.
- C. Medium Density Residential Zone: The purpose of the medium density residential (R2) zone is to provide areas for moderate density residential neighborhoods when necessary public services, including sewerage disposal facilities, are available. This zone may provide an opportunity for less costly housing because of the smaller lot sizes permitted. Other compatible uses may be allowed as permitted or conditional uses.

Adopted by Ord. 2007-02 on 7/11/2007

10-11-2: SCOPE

The provisions of this chapter shall apply to any real property located in a residential zone as shown on the official zoning map. No building, structure or real property shall be used and no building or structure shall be hereafter erected, structurally or substantially altered, or enlarged except as set forth in this chapter. Such requirements shall not be construed to prohibit or limit other applicable provisions of this title, this code, or other laws.

Adopted by Ord. 2007-02 on 7/11/2007

10-11-3: USES ALLOWED

- A. Permitted And Conditional Uses: Permitted and conditional uses allowed within residential zones shall be as set forth in table [10-11-1](#) of section [10-11-8](#) of this chapter. Permitted and conditional uses are indicated by a "P" or "C", respectively, in the appropriate column. Uses not permitted are indicated by "N". Any use not shown on table [10-11-1](#) of section [10-11-8](#) of this chapter shall be prohibited unless the zoning administrator determines the use is substantially the same as a permitted or conditional use based upon an administrative interpretation as provided in section [10-5-20](#) of this title.
- B. Accessory Uses: Permitted and conditional uses set forth in table [10-11-1](#) of section [10-11-8](#) of this chapter shall be deemed to include accessory uses and activities that are necessarily and customarily associated with and incidental and subordinate to such uses.
 - 1. Accessory uses shall be subject to the same regulations that apply to permitted and conditional uses in the same zone except as otherwise expressly provided in this title.
 - 2. No accessory use, building, or structure shall be allowed on a lot unless a permitted or conditional use has been established.

Adopted by Ord. 2007-02 on 7/11/2007

10-11-4: DEVELOPMENT STANDARDS

Development standards within residential zones shall be as set forth in table [10-11-2](#) of section [10-11-8](#) of this chapter.

Adopted by Ord. 2007-02 on 7/11/2007

10-11-5: REGULATIONS OF GENERAL APPLICABILITY

The use and development of real property in residential zones shall conform to the development standards as set forth in the following chapters of this title:

- A. Existing conditions inventory: See [chapter 17](#) of this title.
- B. Landscaping and screening: See [chapter 18](#) of this title.
- C. Off street parking: See [chapter 19](#) of this title.
- D. Outdoor lighting: See [chapter 20](#) of this title.
- E. Signs: See [chapter 21](#) of this title.
- F. Supplementary development standards: See [chapter 22](#) of this title.
- G. Water source protection: See [chapter 23](#) of this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-11-6: REGULATIONS FOR SPECIFIC USES

To the extent that use and development of real property includes any matter encompassed by a regulation for a specific use as set forth in this title, such regulation shall apply in addition to the requirements of this chapter and shall prevail over any conflicting provision of this chapter.

Adopted by Ord. 2007-02 on 7/11/2007

10-11-7: SPECIAL REGULATIONS

- A. Animals: Within any residential zone, the keeping of animals shall be permitted only when the premises are occupied for residential use. The maintenance of animals on an unoccupied residential lot shall be prohibited when an adjoining lot is used for residential purposes.
- B. Larger Accessory Buildings: Notwithstanding the maximum building size limitation shown on table [10-11-2](#) of section [10-11-8](#) of this chapter, the maximum size of an accessory building may be increased pursuant to a conditional use permit.
- C. Increased Height: Notwithstanding the height limitations shown on table [10-11-2](#) of section [10-11-8](#) of this chapter, a greater building height may be allowed pursuant to a conditional use permit.

Adopted by Ord. 2007-02 on 7/11/2007

10-11-8: TABLES

TABLE 10-11-1
PERMITTED AND CONDITIONAL USES ALLOWED IN RESIDENTIAL ZONES

Use	Zones		
	RR	R1	R2
Agricultural uses:			
Animals and fowl for recreation and family food production	P	P	N

Stable, private	C	N	N
Stable, public	C	N	N
Residential uses:			
Assisted living facility	C	C	C
Dwelling, multiple-family	N	N	C
Dwelling, single-family	P	P	P
Dwelling, single-family with accessory apartment	C	C	C
Dwelling, temporary ¹	C	C	C
Dwelling, two-family	N	N	C
Guesthouse	C	C	C
Protective housing facility	N	N	C
Rehabilitation/treatment facility	C	N	N
Residential facility for elderly persons ²	P	P	P
Residential facility for persons with a disability ²	P	P	P
Transitional housing facility	C	N	N
Public and civic uses:			
Auditorium or stadium	C	N	N
Convalescent care facility	C	C	C
Golf course	C	N	N
Hospital	C	C	C
Protective service	C	C	C
Reception center	C	C	C
Recreation facility	C	N	N
School, charter	P	P	P
Utility, minor	P	P	P
Utility substation	C	C	C
Commercial uses:			
Animal hospital	C	N	N
Bed and breakfast	C	C	C
Family child daycare facility ³	P	P	P
Family child residential certificate care facility ³	P	P	P
Family group child daycare facility ³	C	C	C
Produce stand	C	N	N
Wireless telecommunication facility	C	C	C

Notes:

1. Temporary dwelling must be removed within 30 days after a certificate of occupancy is issued for a permanent dwelling.
2. See [chapter 27](#) of this title.
3. See [chapter 25](#) of this title.

TABLE 10-11-2
DEVELOPMENT STANDARDS IN RESIDENTIAL ZONES

Development Standard	Zones		
	RR	R1	R2
Density standards:			
Dwelling units per acre	1	0.5	0.25
Lot standards:			
Minimum lot area	1 acre	0.5 acre	0.5 acre
Minimum lot width	200 feet	100 feet	100 feet
Building standards:			
Distance between buildings	No requirement		
Maximum height, accessory building	30 feet	20 feet	20 feet

Maximum height, main building ¹	35 feet		
Maximum size, accessory building ²	1,000 square feet	500 square feet	500 square feet
Setback standards - front yard:			
Any building ³	35 feet		
Setback standards - rear yard:			
Accessory building	5 feet plus 1 foot increased setback for each foot of building height above 10 feet		
Main building	20 feet		
Setback standards - interior side yard:			
Accessory building	10 feet, when 10 feet or more behind main building		
	15 feet, when less than 10 feet behind main building plus 1 foot increased setback for each foot of building height above 10 feet		
Main building	20 feet		
Setback standards - street side yard:			
Accessory building	Not permitted		
Main building	35 feet		
Main building on corner lot with yard that abuts the side yard of another lot	35 feet		

Notes:

1. Except as otherwise permitted by subsection [10-11-7C](#) of this chapter.
2. Except as otherwise permitted by subsection [10-11-7B](#) of this chapter.
3. Except as modified by the provisions of subsection [10-22-14E](#), "Setback Measurement", of this title.

Adopted by Ord. 2007-02 on 7/11/2007

Chapter 12: COMMERCIAL ZONES

[10-12-1: PURPOSE](#)

[10-12-2: SCOPE](#)

[10-12-3: USES ALLOWED](#)

[10-12-4: DEVELOPMENT STANDARDS](#)

[10-12-5: REGULATIONS OF GENERAL APPLICABILITY](#)

[10-12-6: REGULATIONS FOR SPECIFIC USES](#)

[10-12-7: SPECIAL REGULATIONS](#)

[10-12-8: TABLES](#)

10-12-1: PURPOSE

Commercial zones provide areas where a combination of business, commercial, entertainment, office, and related activities may be established, maintained and protected. Commercial zones are intended to provide a suitable environment for those commercial and service uses vital to the economic base of the city.

- A. General Commercial Zone: The purpose of the general commercial (C) zone is to accommodate a wide range of commercial uses developed independently without an overall plan or design scheme with respect to adjoining commercial land. Use of the C zone for new commercial development should be avoided unless integrated development in another zone is not practical or desirable because of difficult size, shape, topography, or similar problems related to land otherwise deemed appropriate for commercial use.
- B. Planned Commercial Zone: The purpose of the planned commercial (PC) zone is to provide areas where a planned combination of business, retail commercial, entertainment, and related uses, compatible with the small town character of the city, may be established in an integrated design setting.

Adopted by Ord. 2007-02 on 7/11/2007

10-12-2: SCOPE

The provisions of this chapter shall apply to any real property located in a commercial zone as shown on the official zoning map. No building, structure or real property shall be used and no building or structure shall be hereafter erected, structurally or substantially altered, or enlarged except as set forth in this chapter. Such requirements shall not be construed to prohibit or limit other applicable provisions of this title, this code, or other laws.

Adopted by Ord. 2007-02 on 7/11/2007

10-12-3: USES ALLOWED

- A. Permitted And Conditional Uses: Permitted and conditional uses allowed within commercial zones shall be as set forth in table [10-12-1](#) of section [10-12-8](#) of this chapter. Permitted and conditional uses are indicated by a "P" or "C", respectively, in the appropriate column. Uses not permitted are indicated by "N". Any use not shown on table [10-12-1](#) of section [10-12-8](#) of this chapter shall be prohibited unless the zoning administrator determines the use is substantially the same as a permitted or conditional use based upon an administrative interpretation as provided in section [10-5-20](#) of this title.
- B. Accessory Uses: Permitted and conditional uses set forth in table [10-12-1](#) of section [10-12-8](#) of this chapter shall be deemed to include accessory uses and activities that are necessarily and customarily associated with and incidental and subordinate to such uses.
 1. Accessory uses shall be subject to the same regulations that apply to permitted and conditional uses in the same zone except as otherwise expressly provided in this title.
 2. No accessory use, building, or structure shall be allowed on a lot unless a permitted or conditional use has been established.

Adopted by Ord. 2007-02 on 7/11/2007

10-12-4: DEVELOPMENT STANDARDS

Development standards within commercial zones shall be as set forth in table [10-12-2](#) of section [10-12-8](#) of this chapter.

Adopted by Ord. 2007-02 on 7/11/2007

10-12-5: REGULATIONS OF GENERAL APPLICABILITY

The use and development of real property in commercial zones shall conform to the development standards as set forth in the following chapters of this title:

- A. Existing conditions inventory: See [chapter 17](#) of this title.
- B. Landscaping and screening: See [chapter 18](#) of this title.
- C. Off street parking: See [chapter 19](#) of this title.
- D. Outdoor lighting: See [chapter 20](#) of this title.
- E. Signs: See [chapter 21](#) of this title.
- F. Supplementary development standards: See [chapter 22](#) of this title.
- G. Water source protection: See [chapter 23](#) of this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-12-6: REGULATIONS FOR SPECIFIC USES

To the extent that use and development of real property includes any matter encompassed by a regulation for a specific use as set forth in this title, such regulation shall apply in addition to the requirements of this chapter and shall prevail over any conflicting provision of this chapter.

Adopted by Ord. 2007-02 on 7/11/2007

10-12-7: SPECIAL REGULATIONS

- A. Increased Height: Notwithstanding the height limitations shown on table [10-12-2](#) of section [10-12-8](#) of this chapter, a greater building height may be allowed pursuant to a conditional use permit.
- B. Use Within An Enclosed Building: Each use specified on table [10-12-1](#) of section [10-12-8](#) of this chapter shall be conducted completely within a completely enclosed building, except for the parking of motor vehicles.
- C. Dust, Odor, Smoke, Noise, And Vibration: Each use specified on table [10-12-1](#) of section [10-12-8](#) of this chapter shall be free from objectionable dust, odor, smoke, noise, and vibration.
- D. Parking: Parking may be provided within a front or street side yard setback area so long as the first twenty feet (20') adjacent to the street is landscaped. Such parking and landscaping shall conform to applicable provisions of chapters 18 and 19 of this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-12-8: TABLES

TABLE 10-12-1
PERMITTED AND CONDITIONAL USES ALLOWED
IN COMMERCIAL ZONES

Use	Zones	
	C	PC
Agricultural uses:		
Agricultural business	C	N
Public and civic uses:		
Auditorium or stadium	C	C
Club or service organization	C	C
Convalescent care facility	C	C
Cultural service	C	C
Golf course	C	C
Government service	C	C
Post office	P	P
Protective service	P	P
Reception center	C	C
School, charter	P	P
Transportation terminal	C	C
Utility, minor	P	P
Utility substation	C	C
Commercial uses:		
Agricultural sales and service	C	N

Animal hospital	C	C
Bank or financial institution	P	P
Business equipment rental, services, and supplies	C	C
Car wash	C	C
Construction sales and service	C	N
Convenience store	P	P
Family childcare center	C	C
Funeral home	C	N
Gasoline service station	C	C
Hotel	C	C
Laundry or dry cleaning, limited	C	C
Medical or dental laboratory	C	N
Medical service	C	C
Motel	C	C
Office, general	P	P
Parking garage, public	P	P
Parking lot, public	P	P
Personal care service	P	P
Personal instruction service	P	P
Printing and copying, limited	P	P
Printing, general	C	C
Produce stand	C	N
Recreation facility, indoor	C	C
Repair service	C	C
Research service	C	C
Restaurant, fast food	C	C
Restaurant, general	C	C
Retail, general	C	C
Shopping center	C	P
Tattoo establishment	C	N
Tavern	C	N
Vehicle and equipment rental or sale	C	N
Vehicle and equipment repair, general	C	N
Vehicle repair, limited	C	N
Veterinary service (within enclosed building only)	C	C
Warehouse, self-service storage	C	C
Wireless telecommunication facility	C	C

TABLE 10-12-2
DEVELOPMENT STANDARDS IN COMMERCIAL ZONES

Development Standard	Zones	
	C	PC
Lot standards:		
Minimum lot area	No requirement, subject to site plan review	
Minimum lot width	No requirement, subject to site plan review	
Building standards:		
Maximum height, accessory building	20 feet	Not permitted
Maximum height, main building ¹	45 feet	
Maximum stories	3.5 stories	
Setback standards - front yard:		
All buildings ²	40 feet	40 feet

Setback standards - rear yard:		
Accessory building	5 feet	Not permitted
Main building	20 feet	25 feet
Setback standards - interior side yard:		
Accessory building	10 feet, when 10 feet or more behind main building 15 feet, when less than 10 feet behind main building	Not permitted
Main building	25 feet	25 feet
Setback standards - street side yard:		
Accessory building	Not permitted	
Main building	40 feet	40 feet

Notes:

1. Except as otherwise permitted by subsection [10-12-7A](#) of this chapter.
2. Except as modified by the provisions of subsection [10-22-14E](#), "Setback Measurement", of this title.

Adopted by Ord. 2007-02 on 7/11/2007

Chapter 13: INDUSTRIAL ZONE

- [10-13-1: PURPOSE](#)
- [10-13-2: SCOPE](#)
- [10-13-3: USES ALLOWED](#)
- [10-13-4: DEVELOPMENT STANDARDS](#)
- [10-13-5: REGULATIONS OF GENERAL APPLICABILITY](#)
- [10-13-6: REGULATIONS FOR SPECIFIC USES](#)
- [10-13-7: SPECIAL REGULATIONS](#)
- [10-13-8: TABLES](#)

10-13-1: PURPOSE

Industrial zones provide areas for conducting business, manufacturing, and industrial activities.

- A. Industrial Zone: The purpose of the industrial (I) zone is to provide minimum standards for manufacturing, construction and industrial activities. These standards are intended to protect neighboring residential and agricultural properties.

Adopted by Ord. 2007-02 on 7/11/2007

10-13-2: SCOPE

The provisions of this chapter shall apply to any real property located in an industrial zone as shown on the official zoning map. No building, structure or real property shall be used and no building or structure shall be hereafter erected, structurally or substantially altered, or enlarged except as set forth in this chapter. Such requirements shall not be construed to prohibit or limit other applicable provisions of this title, this code, or other laws.

Adopted by Ord. 2007-02 on 7/11/2007

10-13-3: USES ALLOWED

- A. Permitted And Conditional Uses: Permitted and conditional uses allowed within industrial zones shall be as set forth in table [10-13-1](#) of section [10-13-8](#) of this chapter. Permitted and conditional uses are indicated by a "P" or "C", respectively, in the appropriate column. Uses not permitted are indicated by "N". Any use not shown on table [10-13-1](#) of section [10-13-8](#) of this chapter shall be prohibited unless the zoning administrator determines the use is substantially the same as a permitted or conditional use based upon an administrative interpretation as provided in section [10-5-20](#) of this title.
- B. Accessory Uses: Permitted and conditional uses set forth in table [10-13-1](#) of section [10-13-8](#) of this chapter shall be deemed to include accessory uses and activities that are necessarily and customarily associated with and incidental and subordinate to such uses.
 1. Accessory uses shall be subject to the same regulations that apply to permitted and conditional uses in the same zone except as otherwise expressly provided in this title.
 2. No accessory use, building, or structure shall be allowed on a lot unless a permitted or conditional use has been established.

Adopted by Ord. 2007-02 on 7/11/2007

10-13-4: DEVELOPMENT STANDARDS

Development standards within industrial zones shall be as set forth in table [10-13-2](#) of section [10-13-8](#) of this chapter.

Adopted by Ord. 2007-02 on 7/11/2007

10-13-5: REGULATIONS OF GENERAL APPLICABILITY

The use and development of real property in industrial zones shall conform to the development standards as set forth in the following chapters of this title:

- A. Existing conditions inventory: See [chapter 17](#) of this title.
- B. Landscaping and screening: See [chapter 18](#) of this title.
- C. Off street parking: See [chapter 19](#) of this title.
- D. Outdoor lighting: See [chapter 20](#) of this title.
- E. Signs: See [chapter 21](#) of this title.

- F. Supplementary development standards: See [chapter 22](#) of this title.
G. Water source protection: See [chapter 23](#) of this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-13-6: REGULATIONS FOR SPECIFIC USES

To the extent that use and development of real property includes any matter encompassed by a regulation for a specific use as set forth in this title, such regulation shall apply in addition to the requirements of this chapter and shall prevail over any conflicting provision of this chapter.

Adopted by Ord. 2007-02 on 7/11/2007

10-13-7: SPECIAL REGULATIONS

- A. Increased Height: Notwithstanding the height limitations shown on table [10-13-2](#) of section [10-13-8](#) of this chapter, a greater building height may be allowed pursuant to a conditional use permit. Provided, however, that within one hundred feet (100') of the boundary of an adjoining agricultural, residential, or commercial zone, no building shall exceed the greater of:
1. The height limit established by such zone; or
 2. The height limit permitted by a conditional use permit for a building on an abutting lot within such zone.
- B. Processing Within An Enclosed Building: All processing and/or assembly of goods shall be conducted entirely within a completely enclosed building, unless otherwise specified on table [10-13-1](#) of section [10-13-8](#) of this chapter.
- C. Outdoor Storage: Outdoor storage of materials, or finished or semifinished goods shall be located at least one hundred feet (100') from any residential zone boundary.
- D. Parking: Parking may be provided within a front or street side yard setback area so long as the first twenty feet (20') adjacent to the street is landscaped. Such parking and landscaping shall conform to applicable provisions of chapters 18 and 19 of this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-13-8: TABLES

TABLE 10-13-1
PERMITTED AND CONDITIONAL USES ALLOWED
IN INDUSTRIAL ZONES

Use	Zone
	I
Agricultural uses:	
Agricultural industry	C
Animal specialties	C
Operations center	C
Stable, private	C
Stable, public	C
Public and civic uses:	
School, charter	P
School, vocational	C
Transportation terminal	C
Utility, major	C
Utility, minor	P
Utility substation	C
Commercial uses:	
Construction sales and service	C
Kennel (within enclosed building only)	C
Retail, general	C
Sexually oriented business ¹	C
Tattoo establishment	C
Vehicle and equipment rental or sale	C
Vehicle and equipment repair, general	C
Wireless telecommunication facility	P
Industrial uses:	
Automobile wrecking yard	C
Freight terminal	C
Junk or salvage yard	C
Laundry services	C

Manufacturing, general	C
Manufacturing, limited	C
Mineral extraction	C
Wholesale and warehousing, general	C
Wholesale and warehousing, limited	C

Note:

1. See [chapter 28](#) of this title.

TABLE 10-13-2
DEVELOPMENT STANDARDS IN INDUSTRIAL ZONES

Development Standard	Zone
	I
Lot Standards:	
Minimum lot area	No requirement, subject to site plan review
Minimum lot width	No requirement, subject to site plan review
Maximum height, accessory building ¹	45 feet
Maximum height, main building ¹	55 feet
Maximum stories	4.5 stories
Setback standards - front yard:	
Any building ²	50 feet
Setback standards - rear yard:	
Accessory building	5 feet
Main building	30 feet plus 1 foot increased setback for each foot of building height above 25 feet
Setback standards - interior side yard:	
Accessory building	10 feet, when 10 feet or more behind main building 15 feet, when less than 10 feet behind main building
Main building	30 feet
Setback standards - street side yard:	
Accessory building	50 feet
Main building	50 feet

Notes:

1. Except as otherwise permitted by subsection [10-13-7A](#) of this chapter.
2. Except as modified by the provisions of subsection [10-22-14E](#), "Setback Measurement", of this title.

Adopted by Ord. 2007-02 on 7/11/2007

Chapter 14: PUBLIC FACILITY ZONE

[10-14-1: PURPOSE](#)

[10-14-2: SCOPE](#)

[10-14-3: USES ALLOWED](#)

[10-14-4: DEVELOPMENT STANDARDS](#)

[10-14-5: REGULATIONS OF GENERAL APPLICABILITY](#)

[10-14-6: REGULATIONS FOR SPECIFIC USES](#)

[10-14-7: SPECIAL REGULATIONS](#)

[10-14-8: TABLES](#)

10-14-1: PURPOSE

The public facility (PF) zone is for land and facilities owned by public and quasi-public entities which utilize relatively large areas of land. This zone is intended to provide immediate recognition of such areas on the official zoning map.

Adopted by Ord. 2007-02 on 7/11/2007

10-14-2: SCOPE

The provisions of this chapter shall apply to any real property located in a public facility zone as shown on the official zoning map. No building, structure or real property shall be used and no building or structure shall be hereafter erected, structurally or substantially altered, or enlarged except as set forth in this chapter. Such requirements shall not be construed to prohibit or limit other applicable provisions of this title, this code, or other laws.

Adopted by Ord. 2007-02 on 7/11/2007

10-14-3: USES ALLOWED

- A. Permitted And Conditional Uses: Permitted and conditional uses allowed within public facility zones shall be as set forth in table [10-14-1](#) of section [10-14-8](#) of this chapter. Permitted and conditional uses are indicated by a "P" or "C", respectively, in the appropriate column. Uses not permitted are indicated by "N". Any use not shown on table [10-14-1](#) of section [10-14-8](#) of this chapter shall be prohibited unless the zoning administrator determines the use is substantially the same as a permitted or conditional use based upon an administrative interpretation as provided in section [10-5-20](#) of this title.
- B. Accessory Uses: Permitted and conditional uses set forth in table [10-14-1](#) of section [10-14-8](#) of this chapter shall be deemed to include accessory uses and activities that are necessarily and customarily associated with and incidental and subordinate to such uses.
1. Accessory uses shall be subject to the same regulations that apply to permitted and conditional uses in the same zone except as otherwise expressly provided in this title.
 2. No accessory use, building, or structure shall be allowed on a lot unless a permitted or conditional use has been established.

Adopted by Ord. 2007-02 on 7/11/2007

10-14-4: DEVELOPMENT STANDARDS

Development standards within public facility zones shall be as set forth in table [10-14-2](#) of section [10-14-8](#) of this chapter.

Adopted by Ord. 2007-02 on 7/11/2007

10-14-5: REGULATIONS OF GENERAL APPLICABILITY

The use and development of real property in public facility zones shall conform to the development standards as set forth in the following chapters of this title:

- A. Existing conditions inventory: See [chapter 17](#) of this title.
- B. Landscaping and screening: See [chapter 18](#) of this title.
- C. Off street parking: See [chapter 19](#) of this title.
- D. Outdoor lighting: See [chapter 20](#) of this title.
- E. Signs: See [chapter 21](#) of this title.
- F. Supplementary development standards: See [chapter 22](#) of this title.
- G. Water source protection: See [chapter 23](#) of this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-14-6: REGULATIONS FOR SPECIFIC USES

To the extent that use and development of real property includes any matter encompassed by a regulation for a specific use as set forth in this title, such regulation shall apply in addition to the requirements of this chapter and shall prevail over any conflicting provision of this chapter.

Adopted by Ord. 2007-02 on 7/11/2007

10-14-7: SPECIAL REGULATIONS

- A. Increased Height: Notwithstanding the height limitations shown on table [10-14-2](#) of section [10-14-8](#) of this chapter, a greater building height may be allowed pursuant to a conditional use permit.
- B. Parking: Parking may be provided within a front or street side yard setback area so long as the first twenty feet (20') adjacent to the street is landscaped. Such parking and landscaping shall conform to applicable provisions of chapters 18 and 19 of this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-14-8: TABLES

TABLE 10-14-1
PERMITTED AND CONDITIONAL USES ALLOWED
IN PUBLIC FACILITY ZONE

Use	Zone
	PF
Public and civic uses:	
Auditorium	P
Cemetery	P
Church or place of worship	P
College or university	P
Cultural service	P
Golf course	P
Hospital	P
Park	P
Post office	P
Protective service	P
School, charter	P
School, elementary, middle, or high	P

School, vocational	P
Transportation terminal	C
Utility, major	C
Utility, minor	P
Utility substation	C
Wireless telecommunication facility	C

TABLE 10-14-2
DEVELOPMENT STANDARDS IN PUBLIC
FACILITY ZONE

Development Standard	Zone
	PF
Lot standards:	
Minimum lot area	No requirement, subject to site plan review
Minimum lot width	No requirement, subject to site plan review
Building standards:	
Maximum height, accessory building	25 feet
Maximum height, main building ¹	45 feet
Maximum stories	3.5 stories
Setback standards - front yard:	
Any building ²	40 feet
Setback standards - rear yard:	
Accessory building	5 feet plus 1 foot increased setback for each foot of building height above 10 feet
Main building	25 feet
Setback standards - interior side yard:	
Accessory building	10 feet, when 10 feet or more behind main building 15 feet, when less than 10 feet behind main building
Main building	25 feet
Setback standards - street side yard:	
Accessory building	40 feet
Main building	40 feet

Notes:

1. Except as otherwise permitted by subsection [10-14-7A](#) of this chapter.
2. Except as modified by the provisions of subsection [10-22-14E](#), "Setback Measurement", of this title.

Adopted by Ord. 2007-02 on 7/11/2007

Chapter 15: PLANNED ZONE, P

10-15-1: PURPOSES

10-15-2: STANDARDS AND REQUIREMENTS

10-15-3: CONCEPT PLAN APPROVAL REQUIRED PRIOR TO REZONING APPLICATION

10-15-4: FINDINGS REQUIRED TO APPROVE AN APPLICATION FOR A PLANNED ZONE

10-15-5: CONCEPT PLAN TO CONSTITUTE PLANNED ZONE REQUIREMENTS

10-15-6: CONDITIONS UNDER WHICH PLANNED ZONE MAY REVERT TO ORIGINAL ZONING

10-15-7: ADDITIONAL REQUIREMENTS

10-15-1: PURPOSES

- A. To encourage and provide a means of effectuating desirable development through the use of variations in siting, mixed land uses, and/or varied dwelling or other buildings.
- B. To preserve the amenities and compatibility of P zones by adoption of a general development plan showing proper orientation, desirable design character, and compatible land uses.
- C. To provide for the orderly preplanning and long term development for a variety of uses or 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.
- D. To give the developer reasonable assurance that phased development plans prepared in accordance with an approved general plan will be acceptable to Honeyville City.

Phased development plans shall include subdivision plans and/or site plans as provided for in this chapter.

- E. To enable the adoption of measures providing for development of the surrounding area in character compatible with the planned zone.

Adopted by Ord. 2009-01 on 4/8/2009

10-15-2: STANDARDS AND REQUIREMENTS

The following provisions shall apply in a P zone, which zone shall also be subject to other provisions of this code, except that where conflict in regulations occur, the regulations specified in this chapter, or on a development plan approved pursuant to this chapter, shall apply.

- A. P zones 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 zone shall include less than five (5) acres of contiguous land.
- B. No ordinance establishing a P zone shall be adopted unless and until there is on file with Honeyville City written consent of every property owner within such zone at the time of adoption of the ordinance, agreeing:
 1. That the owner will be bound by the conditions and regulations proposed and which will be effective within the zone, and
 2. To record such written agreement with Honeyville City and the Box Elder County recorder.
- C. Before detailed studies of any P zone development plans shall be undertaken by the planning commission, there shall be on file with Honeyville City the written request of all property owner(s) within the proposed zone that such detailed studies be made.
- D. Standards for area, coverage, density, yard requirements, parking and screening for P zone uses shall be governed by the standards of the residential, commercial, or industrial zone most similar in nature and function to the proposed P zone use(s), as determined by the planning commission, and as contained in an approved preliminary design plan for the development. Standards for public improvements shall be governed by applicable ordinances, regulations and laws. Exceptions to or modification of these standards may be made by the planning commission and by the city council, when these bodies find that such exceptions encourage a desirable living environment and are warranted in terms of the proposed development as a whole.

Adopted by Ord. 2009-01 on 4/8/2009

10-15-3: CONCEPT PLAN APPROVAL REQUIRED PRIOR TO REZONING APPLICATION

Prior to the filing of a formal P zone rezoning application, the applicant shall have obtained concept plan approval for the development from the planning commission, which plans shall have been certified to the city council. Upon receipt of the approved concept plan, the city council shall proceed with the rezoning procedures outlined in this code. Such procedures shall be deemed to have been satisfied by the meeting of the development requirements (which must be met incident to obtaining concept plan approval from the planning commission).

Adopted by Ord. 2009-01 on 4/8/2009

10-15-4: FINDINGS REQUIRED TO APPROVE AN APPLICATION FOR A PLANNED ZONE

After public hearing following required legal notice, the city council may by ordinance establish a P zone, provided that it finds that the facts submitted with the application and presented at the hearing establish that:

- A. The proposed development or a given unit thereof can be substantially completed within two (2) years of the establishment of the P zone.
- B. Each phase of the development, as well as the total development can exist as an independent unit capable of 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.
- C. The streets 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 zone.
- D. Commercial development can be justified economically at the locations proposed, if any, to provide commercial facilities.
- E. The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development.
- F. Any exception from standard ordinance requirements is warranted by the design and amenities incorporated into the final plan.
- G. The P zone is in conformance with the general plan.
- H. Existing or proposed utility services are adequate for the population and use densities proposed.

Adopted by Ord. 2009-01 on 4/8/2009

10-15-5: CONCEPT PLAN TO CONSTITUTE PLANNED ZONE REQUIREMENTS

At the time of adoption of any ordinance establishing a P zone, the city council 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 to be shown on the approved concept plan. The P zone shall be given an appropriate name, number or letter to identify it; and, the approved concept plan shall be adopted by reference and become a part of this code.

Adopted by Ord. 2009-01 on 4/8/2009

10-15-6: CONDITIONS UNDER WHICH PLANNED ZONE MAY REVERT TO ORIGINAL ZONING

- A. If no development has occurred to effectuate a P zone development within two (2) years after the zone is created, the planning commission shall review the action and determine whether or not the continuation of a given P zone is in the public interest. If the planning commission so recommends, the city council may order the area reverted to the original zone from which it was created.
- B. If the land within a P zone is sold to a new owner(s), the planning commission or the city council shall require the new owner(s) to accept in writing all obligations and guarantees required by the preliminary design plan of the original owner(s). In the event that such agreement is not provided, the city council may return the zoning of the P zone to the original zoning which existed prior to creation of the P zone.
- C. If the owner(s) or developer of the P zone is unwilling or unable to carry out the requirements of the preliminary design plan because claimed adequate water supplies, wastewater disposal, streets, or other major elements of approval cannot or will not be provided as required, the city council may stop all development in the zone until such failure has been remedied or may revert the zoning to the original zoning which existed prior to creation of the P zone, without waiting for the two (2) year period provided above.

Adopted by Ord. 2009-01 on 4/8/2009

10-15-7: ADDITIONAL REQUIREMENTS

Notwithstanding the flexibility offered to development within a P zone, at no time will the following be allowed:

- A. Dwellings or commercial structures located on less than one-half ($1/2$) acre, and only with approval and assurance from district sanitation that water treatment/disposal is adequate.

- B. A street less than sixty feet (60') in width.
- C. Noncompliance to setback and height requirements for structures from the zone most normally applicable to such structures.
- D. Open or public spaces left barren, unlandscaped or otherwise unsightly or unprotected from erosive elements.
- E. Anything which could be deemed to create an unmitigated safety hazard or otherwise cause a public nuisance.

Adopted by Ord. 2009-01 on 4/8/2009

Chapter 16: SENSITIVE LANDS OVERLAY ZONE

10-16-1: PURPOSE

10-16-2: CONDITIONAL USES

10-16-3: SITE DEVELOPMENT STANDARDS

10-16-4: AGENCY REVIEW

10-16-5: SITE PLAN REVIEW CONSIDERATIONS

10-16-6: WETLANDS

10-16-7: CONDITIONAL USE PERMIT APPROVAL

10-16-8: SENSITIVE LANDS MAP

10-16-1: PURPOSE

The purpose of the sensitive lands overlay (SLO) zone is to delineate those areas within the city that possess geologically and environmentally sensitive terrains with specific intent to:

- A. Address the use of land in the SLO zone.
- B. Protect the general health, safety and welfare of the citizens of the city.
- C. Minimize public and private property damage.
- D. Provide public awareness of sensitive environs.

Adopted by Ord. 2007-02 on 7/11/2007

10-16-2: CONDITIONAL USES

Notwithstanding any other provision of this title, any use allowed by a zone which underlies the sensitive lands overlay zone shall be a conditional use. Such conditional use shall be confined to the boundaries of the respective zone which underlies the sensitive lands overlay zone.

Adopted by Ord. 2007-02 on 7/11/2007

10-16-3: SITE DEVELOPMENT STANDARDS

The development standards and any other provision applicable to a particular use allowed by an underlying zone which is consistent with the standards and regulations set forth in this chapter shall be met. Before a building permit is issued for any development located in the sensitive lands overlay zone, a site plan and conditional use permit shall be approved as provided, respectively, in sections [10-5-13](#) and [10-5-14](#) of this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-16-4: AGENCY REVIEW

- A. The planning commission or city council may require that a site plan submitted for a development in the sensitive lands overlay zone be reviewed by a representative of any or all of the following agencies:
 - 1. Utah geological survey.
 - 2. U.S. soil conservation service.
 - 3. U.S. forest service.
 - 4. Utah division of wildlife resources.
 - 5. Bear River Canal Company.
 - 6. Any other agency or professional deemed necessary.
- B. Following agency review, reasonable action shall be taken to implement agency recommendations in order to offset potential hazards to present and future city residents.

Adopted by Ord. 2007-02 on 7/11/2007

10-16-5: SITE PLAN REVIEW CONSIDERATIONS

In addition to conditional use permit approval standards set forth in section [10-5-14](#) of this title, an application for a conditional use permit in the sensitive lands overlay zone shall also:

- A. Determine whether the site is traversed by possible earthquake faults. If so, the planning commission may require the developer to engage the services of an engineering geologist recognized by the Utah geological survey to precisely locate such fault.
 - 1. Buildings shall not be placed on or across a fault nor within fifty feet (50') thereof unless it is determined by the planning commission that the distance of fifty feet (50') may be reduced without creating a potential hazard. The planning commission may require a greater distance from the fault line.
 - 2. Flexible joints shall be required where utility lines cross identified faults.
- B. Determine whether proposed development will adversely affect a sensitive wildlife habitat; and if so, determine what measures, if any, are necessary to protect that sensitive wildlife habitat.
- C. Determine whether proposed development will adversely affect existing vegetation cover; and if so, determine what measures, if any, are necessary to protect such vegetation.
- D. Determine whether proposed development will generate sufficient vehicular traffic to reduce the capacity of existing street systems to level of service C or more; and if so, determine what remedies are needed to maintain the existing level of service.
- E. Determine whether steep slopes in excess of fifteen percent (15%) are located on the site; and if so, what measures, if any, are necessary to prevent adverse terrain erosion, soil instability, excessive storm runoff, unnecessary cut and fill, and excessive street grades.
- F. Determine whether the site is subject to active or potential landslides; and if so, the planning commission may require that the developer engage the services of an engineering geologist to evaluate the landslide area in order to ensure against personal or public property damage.

- G. Determine whether adequate public utilities such as storm sewer, sanitary disposal, and culinary water are available to support the proposed development.

Adopted by Ord. 2007-02 on 7/11/2007

10-16-6: WETLANDS

The city may not designate or treat any land as wetlands unless the United States army corps of engineers or other agency of the federal government has designated the land as wetlands.

Adopted by Ord. 2007-02 on 7/11/2007

10-16-7: CONDITIONAL USE PERMIT APPROVAL

A conditional use permit shall not be approved for a use in the sensitive lands overlay zone unless evidence is presented to establish:

- A. The proposed use of the particular location is necessary or desirable to provide a service or facility which will contribute to the general well being of the community.
- B. Such use will not, under the circumstances of the particular case and the conditions imposed, be detrimental to the health, safety and general welfare of persons nor injurious to property and improvements in the city, but will be compatible with and complementary to the intent and purpose of this chapter when considering the conditional use permit approval standards set forth in section [10-5-14](#) of this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-16-8: SENSITIVE LANDS MAP

The city council shall adopt by ordinance a map entitled the "Honeyville City Sensitive Lands Overlay Zones" delineating zone boundaries and sensitive lands information obtained pursuant to section [10-16-5](#) of this chapter. The map shall be filed in the office of the city recorder and may be examined by the public during the city's regular business hours.

Adopted by Ord. 2007-02 on 7/11/2007

Chapter 17: EXISTING CONDITIONS INVENTORY

10-17-1: PURPOSE

10-17-2: SCOPE

10-17-3: INVENTORY REQUIREMENTS

10-17-1: PURPOSE

The purpose of this chapter is to identify existing conditions on a proposed development site, before development is approved and construction occurs, to enable the city to make informed decisions that promote efficient expenditure of city revenues and protect public health and safety.

Adopted by Ord. 2007-02 on 7/11/2007

10-17-2: SCOPE

Before any subdivision or site plan is reviewed and approved, an existing conditions inventory ("ECI") shall be provided for the subject property. The ECI shall present the information regarding the factors set forth in section [10-17-3](#) of this chapter as they apply to the property and to the first one hundred feet (100') of adjoining property.

Adopted by Ord. 2007-02 on 7/11/2007

10-17-3: INVENTORY REQUIREMENTS

Each ECI shall address the factors set forth in this section. Floodplain elevations for a 100-year flood event shall be shown by topographic delineation.

- A. Streams And Floodplains: The ECI shall show all streams and drainage courses located on or within one hundred feet (100') of the subject property and floodplains for drainage areas over twenty (20) acres as shown on federal emergency management agency flood insurance rate maps or more current sources of information.
 1. If available, city topographic maps or field topography shall be used to determine the presence of streams and drainage courses.
 2. If engineering studies provide the basis for topographic or floodplain information, they shall be approved by the city engineer prior to approval of any subdivision or site plan for the subject property.
- B. Steep Slopes: The ECI shall show existing slopes greater than fifteen percent (15%). Slopes between fifteen (15) to thirty percent (30%) shall be distinguished from slopes greater than thirty percent (30%).
- C. Soil Limitations: The ECI shall show soil types as identified on any soil survey prepared for a government body. Soil types shall be noted on the ECI and on the associated development plan. Soils with severe development limitations shall be disclosed in a separate report prepared by a qualified professional. Soils with severe limitations for development are those which have one or more of the following characteristics: seasonal high water table, subject to flood hazard, poor drainage, wetland/hydric soil conditions, high shrink/swell potential, shallow depth to bedrock, excessive slopes, and high susceptibility to erosion, all as reasonably determined by the city engineer pursuant to generally accepted civil engineering practices.
- D. Wetlands: The ECI shall show all wetlands as required by the United States army corps of engineers or other federal government agency. Wetlands also shall be shown on the associated subdivision plat or site plan, as the case may be.
 1. Wetlands shall be shown on the ECI by a line delineating the boundary of wetlands or a note stating that no wetlands exist on the property.
 2. If wetlands are present, prior to consideration of a subdivision or site plan, a copy of the federal wetlands delineation shall be submitted to the city. The name and address of the individual who conducted the wetlands delineation shall be indicated on the proposed subdivision or site plan, as the case may be.
 3. Copies of any applications for authorization to impact or alter wetlands shall be submitted with the subdivision site plan application.
- E. Shrubs And Trees: The ECI shall show shrub and tree stands which shall be delineated by a circumferential line extending to the outer perimeter of the tree or shrub canopies.

1. Tree varieties and range of size shall be indicated.
2. Trees with twelve inches (12") or greater caliper at a height of four feet (4') above ground located within areas proposed to be disturbed shall be shown.

F. Dam Or Canal Break Analysis: The ECI shall show the danger reach of areas subject to inundation in the event of dam or ditch/canal bank failure.

1. For the purpose of review by the city, a dam or canal breach analysis shall be required when:
 - a. Failure of a dam or canal could result in loss of life, damage to homes, commercial or industrial buildings; or damage or inundation of arterial or collector highways; or interruption in the use or service of public utilities, as reasonably determined by the zoning administrator, or
 - b. The drainage area to the impoundment is one hundred (100) acres or more.
2. Additional information may be required with a subdivision or site plan application, as the case may be, including:
 - a. Information on the dam or canal itself, including storage volume and the hazard classification thereof.
 - b. Dam break analysis using generally recognized analysis models.
 - c. The flow path or channel that would carry a flood.

G. Threatened And Endangered Species: The ECI shall show generally the habitat and location of flora and fauna designated as rare, threatened, endangered, in need of conservation, or listed as watch list species, as determined by the Utah department of natural resources or U.S. fish and wildlife service, known to exist on the property proposed for development.

H. Existing Wildlife: A general description of existing wildlife seen or known to exist on the subject property shall be set forth in a note on the ECI.

I. Cultural And Historic Resources: Cultural and historic resources identified by the city shall be shown on the ECI.

Adopted by Ord. 2007-02 on 7/11/2007

Chapter 18: LANDSCAPING AND SCREENING

10-18-1: PURPOSE

10-18-2: SCOPE

10-18-3: LANDSCAPING PLAN

10-18-4: DEVIATION FROM STRICT COMPLIANCE

10-18-5: REQUIRED LANDSCAPING

10-18-6: PLANT MATERIAL STANDARDS

10-18-7: INSTALLATION, IRRIGATION, AND MAINTENANCE

10-18-8: SUBSTITUTE PLANT MATERIALS

10-18-9: TEMPORARY SUSPENSION OF LANDSCAPING INSTALLATION

10-18-10: SITE FEATURE BUFFERING AND SCREENING

10-18-1: PURPOSE

The purpose of this chapter is to promote public health, safety and welfare by establishing minimum standards for the preservation, installation and maintenance of landscaping and buffering. This chapter is intended to achieve the following objectives:

- A. To improve the aesthetic appearance of development by establishing minimum landscaping standards;
- B. To promote water conservation by encouraging the use of drought tolerant landscape material; and
- C. To maintain and improve environmental conditions by providing ground water recharge areas and minimizing stormwater runoff, noise and glare.

Adopted by Ord. 2007-02 on 7/11/2007

10-18-2: SCOPE

Unless exempted as provided in subsection B of this section, or otherwise specifically provided elsewhere in this title, the standards of this chapter shall apply to any new development.

- A. Continuous Maintenance: Landscaping, buffering and site design features required by this chapter shall be continuously maintained as provided herein.
- B. Exemption: The provisions of this chapter shall not apply to a single-family dwelling or any agricultural use.

Adopted by Ord. 2007-02 on 7/11/2007

10-18-3: LANDSCAPING PLAN

- A. Information Required: Whenever a landscaping plan is required by this title, such plan shall demonstrate compliance with the provisions of this chapter and shall show the following information:
 1. Landscaping materials;
 2. Location and spacing of existing and proposed plantings;
 3. Plant sizes;
 4. Proposed treatment of ground surfaces;
 5. Irrigation or watering plan; and
 6. Such other information as may be needed to demonstrate compliance with the provisions of this chapter.
- B. Visual Obstructions: Landscape plans shall conform to the visual obstruction requirements of section [10-22-10](#) of this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-18-4: DEVIATION FROM STRICT COMPLIANCE

- A. Deviations Authorized: Since site conditions and development constraints may vary greatly among sites, the planning commission may approve landscape plans that deviate from strict compliance with the provisions of this chapter. Any proposed deviation from the requirements of this chapter shall be:
 1. Clearly identified on the proposed landscape plan; and
 2. Accompanied by a written description of the proposed deviation showing how the intent of this chapter will be met by the proposed plan.

B. Findings Required: The planning commission may authorize a landscape plan deviation only if it finds the deviation:

1. Is consistent with the intent of this chapter;
2. Is justified by site constraints; and
3. Is of comparable quality to what would otherwise be required without a deviation.

Adopted by Ord. 2007-02 on 7/11/2007

10-18-5: REQUIRED LANDSCAPING

- A. General Requirement: Landscaped areas may include trees, shrubs, vegetative, organic and inorganic ground cover and other organic and inorganic materials identified in an approved landscaping plan. All required landscape areas shall be occupied by plant material or ground cover.
- B. Landscaping Adjacent To A Public Street: Except for approved driveways and pedestrian walkways, a landscaped area shall be provided adjacent and parallel to the frontage of a public street as follows:
1. Nonarterial street: Twenty foot (20') wide landscaped area.
 2. Arterial street: Ten foot (10') wide landscaped area.
 3. One tree and three (3) shrubs shall be planted for every twenty five feet (25') of street frontage in a required landscaped area. Such trees and shrubs may be clustered, provided that no tree shall be within five feet (5') of another.
 4. The slope of any earth berm shall not exceed a vertical to horizontal ratio of one to two (1:2) and shall be treated with suitable ground cover to prevent soil erosion.
- C. Parking Strip Landscaping: All parking strips shall be landscaped.
- D. Parking Lot Landscaping:
1. Every parking lot consisting of more than ten (10) spaces and three thousand five hundred (3,500) square feet of area shall contain internal landscaped areas as follows:
 - a. Multiple-family residential: Ten percent (10%) of total parking lot area.
 - b. Office and commercial: Seven percent (7%) of total parking lot area.
 - c. Industrial and warehouse: Five percent (5%) of total parking lot area.
 2. For every ten (10) required parking spaces, or portion thereof, a minimum of two (2) shrubs and one deciduous tree shall be provided within the internal parking area. The species of such trees shall be such that at maturity a tree canopy is provided to shade the parking area below each tree.
 3. Landscaped areas shall contain a minimum of twenty five (25) square feet and shall have a minimum average width of at least five feet (5').
 4. Landscape islands should be located in the following priority:
 - a. To define major drives and accessways;
 - b. To delineate ends of parking rows;
 - c. At aisle intersections; and
 - d. Within parking rows.
- E. Foundation Landscaping: Landscaping shall be provided adjacent to the wall of a building which has frontage on a public street as follows:
1. At least fifty percent (50%) of the building frontage shall be landscaped; and
 2. The minimum width of the landscaped area shall be three feet (3'), excluding any vehicle overhang from an adjacent parking area.
- F. Landscaping In A Multiple-Family Residential Development: Open space and common areas within a multiple-family residential development shall include a minimum of one tree and two (2) shrubs per dwelling unit.

Adopted by Ord. 2007-02 on 7/11/2007

10-18-6: PLANT MATERIAL STANDARDS

- A. Plant Characteristics: Plant materials used to provide landscaping should:
1. Be drought tolerant;
 2. Have noninvasive growth habits;
 3. Have low maintenance characteristics; and
 4. Be commercially available.
- B. Plant Quality: Plants installed pursuant to this chapter shall conform to or exceed the plant quality standards of the most recent edition of "American Standard For Nursery Stock" published by the American Nursery & Landscape Association.
- C. Artificial Plants: No artificial plants shall be used to meet any standard of this chapter.
- D. Tree Diameter And Height:
1. Trees planted to satisfy the standards of this chapter shall have a minimum caliper (diameter) of two inches (2") measured four feet (4') above the ground.
 2. Evergreen trees planted to satisfy the standards of this chapter shall have a minimum height of six feet (6').
 3. Shrubs planted to satisfy the standards of this chapter shall have a minimum height of eighteen inches (18") at the time of planting.
- E. Ground Treatment: Ground area within a required landscape area shall be landscaped and present a finished appearance upon completion of landscaping. Ground cover may consist of plant materials characterized by horizontal as well as vertical growth, generally not exceeding eighteen inches (18") in height. Up to fifty percent (50%) of ground cover may consist of inert material such as decomposed granite, gravel, crushed rock, bark chips, or other similar material.

Adopted by Ord. 2007-02 on 7/11/2007

10-18-7: INSTALLATION, IRRIGATION, AND MAINTENANCE

Any required landscaping shall be installed, irrigated, and maintained in accordance with the following standards:

- A. Installation: All landscaping shall be installed according to accepted nursery practices.
- B. Verification Of Installation: Prior to issuing a certificate of occupancy, the zoning administrator shall verify that required landscaping and screening has been installed in compliance with the approved landscape plan.
- C. Irrigation: Landscape areas shall be irrigated as necessary to maintain required plant materials in good and healthy condition, while at the same

time avoiding water waste through inefficient irrigation.

D. Maintenance: Landscape areas, including park strips, shall be maintained in a healthy, neat and orderly condition as follows:

1. Landscaped areas shall be free of weeds and litter;
2. Landscape structures (e.g., walls, fences) shall be repaired or replaced in a structurally sound condition consistent with original appearance; and
3. The city may require that any dead trees, shrubs and plants be replaced within the current or next planting season.

Adopted by Ord. 2007-02 on 7/11/2007

10-18-8: SUBSTITUTE PLANT MATERIALS

The zoning administrator may approve installation of comparable substitute plant materials to satisfy the requirements of an approved landscape plan when approved materials are unavailable or when other unforeseen conditions prevent the use of materials shown on an approved landscaping plan. The zoning administrator may not reduce the number of plants required. Any significant change to approved landscaping plans shall be reviewed and approved by the planning commission.

Adopted by Ord. 2007-02 on 7/11/2007

10-18-9: TEMPORARY SUSPENSION OF LANDSCAPING INSTALLATION

During periods of adverse weather conditions or when plants and landscape materials are not available, the planning commission may temporarily suspend the installation of required landscaping and authorize the zoning administrator to issue a temporary certificate of occupancy, provided the landowner enters into an agreement with the city that requires the installation of required landscaping within a reasonable time.

Adopted by Ord. 2007-02 on 7/11/2007

10-18-10: SITE FEATURE BUFFERING AND SCREENING

The following site features shall be screened as provided below:

- A. Trash Receptacles: Trash receptacles in a multiple-family residential, commercial, public facility, business/manufacturing park, or professional office zone shall be screened from view by a wall or fence which:
 1. Is at least six feet (6') in height;
 2. Provides complete visual screening of the receptacle; and
 3. Is compatible in material and color with the main building on the lot.
- B. Permitted Outdoor Storage: Outdoor storage areas permitted by this title shall be screened from view by an opaque fence or wall. Nonopaque fencing, such as powder or vinyl coated chainlink, may be used to satisfy this requirement in industrial zones if vinyl slats are inserted into the fence.
- C. Service And Loading Areas: Service and loading areas shall be screened from public view.
- D. Ground Mounted Utility Boxes, Meters And Mechanical Equipment: Ground mounted utility boxes, meters, and mechanical equipment shall be screened from view by landscaping or architectural elements compatible in material and color with the primary structure(s) on the premises. This requirement shall not apply to:
 1. Rear and rear side yard locations adjacent to other service or mechanical areas not adjacent to a public street, and
 2. Development in agricultural and single-family residential zones.
- E. Roof Mounted Mechanical Equipment: Roof mounted mechanical equipment shall be concealed by material which is consistent with the building design and is equal to or greater in height than the mechanical equipment.

Adopted by Ord. 2007-02 on 7/11/2007

Chapter 19: OFF STREET PARKING AND LOADING

10-19-1: PURPOSE

10-19-2: SCOPE

10-19-3: PARKING TO BE PROVIDED

10-19-4: PARKING CALCULATION

10-19-5: PARKING LOCATION

10-19-6: NUMBER AND TYPE OF PARKING SPACES

10-19-7: PARKING DIMENSIONS

10-19-8: PARKING LOT DESIGN AND CONSTRUCTION

10-19-9: ACCESS REQUIREMENTS

10-19-10: PARKING MODIFICATIONS

10-19-11: TABLES AND FIGURES

10-19-1: PURPOSE

The purpose of this chapter is to assure the provision and maintenance of off street parking and loading facilities in proportion to the parking and loading demand of land uses. The requirements of this chapter are intended to assure useful and attractive parking and loading facilities, to protect public safety, and to mitigate adverse land use impacts.

Adopted by Ord. 2007-02 on 7/11/2007

10-19-2: SCOPE

The requirements of this chapter shall be applicable to any new development requiring motor vehicle access under the provisions of this title. The requirements of this chapter shall not be construed to prohibit or limit other applicable provisions of this title, this code, and other laws.

Adopted by Ord. 2007-02 on 7/11/2007

10-19-3: PARKING TO BE PROVIDED

- A. Off Street Parking Required: Every land use established under the authority of this title shall have parking required by this chapter. When any building or structure is erected, enlarged or increased in capacity, or any use is established or changed, parking shall be provided in accordance with the requirements of this chapter.
- B. Continuing Obligation To Provide Parking: Provision of parking as required by this chapter shall be a continuing obligation so long as a use continues which requires parking. It shall be unlawful for any owner, land use operator, or person responsible for providing parking to discontinue or dispense with required parking facilities without providing an alternate parking area which meets the requirements of this chapter.
- C. Alteration Where Parking Insufficient: A building, structure or use which lacks sufficient parking as required by this chapter may not be altered or enlarged or the use changed unless additional parking for the alteration or enlargement is supplied that meets the requirements of this chapter.

Adopted by Ord. 2007-02 on 7/11/2007

10-19-4: PARKING CALCULATION

The following provisions shall be used to calculate the total number of parking spaces required by this chapter:

- A. More Than One Use On Lot: If a lot contains more than one use, parking spaces shall be provided in an amount equal to the total of the requirements for each use unless shared parking is permitted pursuant to this chapter.
- B. Fixed Seating: Where seating consists of chairs, benches, pews or other forms of fixed seating parking shall be calculated at the rate of one parking space per four (4) seats.
- C. Square Foot Basis: Parking requirements based on square footage shall be calculated using gross floor area ("GFA") unless otherwise provided in this chapter.
- D. Employee Basis: Parking requirements based on the number of employees shall be calculated using the largest number of persons working on any shift.
- E. Use Not Listed: If a use and a corresponding parking standard is not listed in table [10-19-1](#) of section [10-19-11](#) of this chapter, the zoning administrator shall determine the number of spaces required for such use based on the nearest comparable use or a parking study as provided in subsection [10-19-10E](#) of this chapter.

Adopted by Ord. 2007-02 on 7/11/2007

10-19-5: PARKING LOCATION

- A. On Site Parking: Except as allowed in subsection B of this section, all required parking shall be located on the same lot as the use to which it is appurtenant and shall be located within three hundred feet (300') from the premises served.
- B. Off Site Parking: Where practical difficulties exist in providing on site parking or if public safety or convenience, or both, would be better served by locating parking on a separate lot, the planning commission may authorize off site parking subject to the following conditions:
 - 1. Required parking spaces reserved for persons with disabilities shall not be located in an off site parking lot.
 - 2. Off site parking lots shall be located in the same or a more intensive zone which applies to the property where the use served is located.
 - 3. No off site parking space shall be located more than three hundred feet (300') from a public entrance of the use served, measured along the route of the shortest legal, practical walking distance. Off site parking shall not be separated from a principal use by a street right of way with a width of more than seventy two feet (72').
 - 4. Availability of each off site parking lot shall be assured by an agreement approved by the city which requires:
 - a. The parking lot to be continuously available unless an alternative legal parking lot is provided;
 - b. All spaces to be available without charge; and
 - c. The zoning administrator to be notified thirty (30) days prior to the expiration or termination of the agreement.
 - 5. Before approving an off site parking lot, the planning commission shall find that such parking is conveniently usable without causing unreasonable:
 - a. Hazard to pedestrians;
 - b. Hazard to vehicular traffic;
 - c. Traffic congestion;
 - d. Interference with safe and convenient access to other parking areas in the vicinity;
 - e. Detriment to the appropriate use of business property in the vicinity; or
 - f. Detriment to any residential neighborhood.
- C. Temporary Parking:
 - 1. Unimproved temporary parking areas shall be exempt from the landscaping and paving requirements of this chapter.
 - 2. The city may allow a temporary use approved pursuant to chapter 29 of this title to occupy or use parking areas ordinarily required for a permanent use if it is found that the temporary use will not cause a shortage in parking needed for the permanent use.
- D. Prohibited Parking:
 - 1. Vacant lots, public rights of way, or open land areas shall not be used as parking areas for customers or employees.
 - 2. Overnight parking of vehicles for display other than in designated and improved areas shall be prohibited.
- E. Commercial Vehicle Parking In Residential Zones: One commercial vehicle with a rated capacity of more than two (2) tons may be parked for not more than twenty four (24) continuous hours in any thirty (30) day period on a lot in a residential zone. Contracting and earthmoving equipment shall not be parked in a residential zone.
- F. Recreational Vehicle Parking In Residential Zones: In residential zones, no boat or recreational vehicle shall be parked within a front yard adjacent to a public street for longer than seven (7) consecutive days.

Adopted by Ord. 2007-02 on 7/11/2007

10-19-6: NUMBER AND TYPE OF PARKING SPACES

- A. Parking Required: Off street parking spaces shall be provided in accordance with this section for every land use authorized by this title except as otherwise expressly allowed by this title. The total number of parking spaces required by this section shall be determined by summing the parking required by each of the subsections in this section.
- B. Standard Parking Spaces: Standard parking spaces shall be provided as set forth in table [10-19-1](#), "Off Street Parking Schedule", of section [10-19-11](#) of this chapter.
- C. Handicapped Parking Spaces: Parking spaces for handicapped persons shall be provided as required by the international building code and the "Uniform Federal Accessibility Standards Manual".

D. Stacking Parking Spaces: Stacking or queue spaces shall be provided as follows:

1. Bank drive-through including automatic teller machines: Three (3) per lane.
2. Car wash:
 - a. Self wash: Three (3) per bay.
 - b. Automatic wash accessory use: Four (4) per bay.
 - c. Automatic wash primary use: Four (4) per bay.
3. Gasoline pump island: One per pump.
4. Fast food restaurant drive-through: Five (5) per lane.

E. Off Street Loading Spaces: Off street loading spaces with a height clearance of fourteen feet (14') or more shall be provided for buildings used for retail, office, industrial, hospital, storage warehousing, and similar uses as follows:

GFA Of Building	Number Of Loading Spaces
3,000 - 20,000 square feet	1
Each additional 20,000 square feet	1

F. Tandem Parking Spaces: Tandem parking spaces shall not qualify as required parking unless approved by the planning commission in the following instances:

1. In multi-family dwellings with garages; or
2. In conjunction with valet parking service.

G. Recreational Vehicle Parking: Adequate and accessible recreational vehicle parking storage areas shall be required in each multiple-family and planned residential development project unless the premises are subject to restrictive covenants or other means limiting the parking of such vehicles.

Adopted by Ord. 2007-02 on 7/11/2007

10-19-7: PARKING DIMENSIONS

Unless otherwise modified as provided in this chapter, parking space, bay, and related dimensions shall be as follows:

A. Parking Space Dimensions: Parking space and related dimensions shall be as set forth in this section and as shown on table [10-19-2](#) and figure 10-19-1 of section [10-19-11](#) of this chapter.

1. Standard parking space: Nine by twenty feet (9 x 20').
2. Carport: Minimum inside dimension of nine by twenty two feet (9 x 22') for each parking space.
3. Garage: Minimum inside dimension of ten by twenty two feet (10 x 22') and minimum door width of eight feet (8') for each parking space.
4. Handicapped parking space: Standard size plus four foot (4') unloading area parallel to the length of the space. Loading area may be shared with an adjacent handicapped parking space.
5. Angle parking space: See table [10-19-2](#) and figure 10-19-1 of section [10-19-11](#) of this chapter.
6. Parallel parking space: Nine by twenty two feet (9 x 22').
7. Loading space: Ten by twenty five feet (10 x 25').
8. Stacking space: Ten by twenty feet (10 x 20').
9. Where the tires of parked vehicles contact curbing, parking stall length may be reduced by two feet (2') if space is available and vehicle overhang does not block a sidewalk.

B. Driveway Dimensions: Minimum driveway dimensions shall be as follows:

1. For access to five (5) or fewer spaces: Twelve feet (12').
2. For access to six (6) or more spaces: Twelve feet (12') for one-way traffic; twenty five feet (25') for two-way traffic. Driveway width shall not exceed thirty five feet (35').

Adopted by Ord. 2007-02 on 7/11/2007

10-19-8: PARKING LOT DESIGN AND CONSTRUCTION

A. Parking Plans: Plans for any proposed parking lot shall be submitted to the zoning administrator. The plan shall clearly indicate the proposed development, including location, size, shape, design, curb cuts, lighting, landscaping and other features and appurtenances of the proposed development.

B. Access To Public Street: Except for parking for a single-family or two-family dwelling, access to a parking space or parking lot shall be from a parking lot aisle and not directly from a public street. Every parking lot shall have access to a public street. Such access may be provided through platted or recorded easements, reciprocal arrangements, or other guaranteed means.

C. Private Driveway: Parking for single-family and two-family dwellings may be accessed from a public street via a private driveway.

D. Backing Space: Backing space shall be provided for all parking lots so that cars will not back onto a public street. Public sidewalks shall not be used as a part of the required backing area. Separate exits shall be provided for angled and one-way parallel parking so a vehicle will not exit by backing onto a public street.

E. Curb: Required parking for multiple-family residential, public facility, commercial and industrial uses shall be bordered by continuous concrete curbing to serve as wheel stops and drainage channels.

F. Curb Cuts: Curb cuts and driveways allowing access to a public street shall conform to the requirements of section [10-19-9](#) of this chapter.

G. Internal Circulation: Each parking lot shall provide for traffic circulation on the property adequate to access all parts thereof without the necessity of exiting onto a public street.

H. Landscaping: Parking lots shall be landscaped as provided in [chapter 18](#) of this title.

I. Lighting: Parking lots used at night shall be adequately lighted, utilizing hooded light sources. Parking lot lights shall be arranged to reflect light away from adjoining residential premises.

J. Paving: Unless expressly provided otherwise in this title, every parking lot required by this title shall:

1. Be paved with asphalt, concrete or some other all weather surfacing material;
2. Be maintained to eliminate dust or mud; and
3. Be graded and drained to dispose of all surface water. Such surface water drainage shall not cross a public sidewalk.

10-19-9: ACCESS REQUIREMENTS

- A. Individual Spaces: Access to each parking space in a parking lot shall be from a private driveway and not from a public street.
- B. Minimum Standards: Adequate ingress and egress shall be provided to all uses at the following minimum standards:
 - 1. Number Of Driveways: No more than two (2) driveways shall be allowed for each one hundred feet (100') or fraction thereof of frontage on any one street.
 - 2. Distance To Property Line: No driveway in a residential district shall be closer than three feet (3') to any property line.
 - 3. Entering Public Roadway: No driveway which enters a public roadway shall be closer than ten feet (10') to any property line.
 - 4. Distance To Each Other On Same Property: No two (2) driveways on the same property shall be closer than twelve feet (12') to each other.
 - 5. Corner Location: No driveway shall be located closer than twenty feet (20') to any corner.
 - 6. Backing Onto Public Streets: Parking spaces for all uses except residential uses shall be so located that parking or departing vehicles do not back onto public streets.
 - 7. Safety Island, Buffer Zone: Where a parking area adjoins an existing curb and gutter and/or sidewalk, a safety island or buffer zone shall be provided to prevent the entrance or exit of vehicles, except via established driveways. The safety island or buffer zone may consist of a concrete curb or a landscaped strip of no less than eight feet (8') in width, depending on the site conditions and the decision of the planning commission.

Adopted by Ord. 2007-02 on 7/11/2007

10-19-10: PARKING MODIFICATIONS

- A. Modification Permitted: The number of parking spaces required under section [10-19-6](#) of this chapter may be modified in accordance with the provisions in this section. The purpose of such modifications is to avoid creating unnecessary parking areas that will be essentially unused. In considering a modification, the planning commission may require a parking study to be completed as provided in subsection E of this section.
- B. Shared Use Parking: The planning commission may authorize shared use of a parking lot subject to the following conditions:
 - 1. The uses sharing the parking lot are unlikely to produce a substantial demand for parking at the same time. The city may require a shared parking study to be completed which clearly establishes that uses will make use of the shared spaces at different times of the day, week, month or year.
 - 2. Required parking spaces reserved for persons with disabilities shall not be reduced.
 - 3. Ongoing shared use of the parking lot is assured by an agreement or easement approved by the city which requires:
 - a. The parking lot to be continuously available unless an alternative legal parking lot is provided;
 - b. All spaces to be available without charge;
 - c. The zoning administrator to be notified thirty (30) days prior to the expiration or termination of the agreement or easement; and
 - d. Provision of additional parking up to the amount otherwise required under this chapter if the zoning administrator determines, based on parking counts, that a shared parking lot does not satisfy the off street parking demand of the uses involved.
- C. Commercial, Retail, Office, And Mixed Use Developments: The planning commission may modify the number of parking spaces required or allowed for commercial, retail, office, or mixed use developments after considering the following items and making a finding that adequate parking will be provided:
 - 1. Total number of spaces that would otherwise be required for each individual establishment in the development;
 - 2. Hours of operation for each business establishment located in the development, including peak business hours;
 - 3. Estimated tradeoff between businesses which are open when others are closed;
 - 4. Availability of approved on street or shared parking;
 - 5. Transportation alternatives, including proximity to transit stations; and
 - 6. Car or van pooling programs available to users of the development.
- D. Multiple-Family And Planned Developments: The planning commission may modify the total number of parking spaces required for multiple-family or planned developments after considering the following items and making a finding that adequate parking will be provided:
 - 1. Size of housing units by number of bedrooms;
 - 2. Cost range of units proposed;
 - 3. Owner/tenant characteristics and lifestyle, i.e., singles, couples, families, professionals, retired, elderly, etc.;
 - 4. Examination of existing comparable parking by area or projects;
 - 5. Size of project;
 - 6. Special parking requirements for visitors and recreational vehicles;
 - 7. Future parking expansion capabilities;
 - 8. Transportation alternatives, including proximity to transit stations;
 - 9. Workplace relationships;
 - 10. Handicap requirements;
 - 11. Restrictive covenants; and
 - 12. Availability of approved on street parking for required guest parking.
- E. Parking Space Study: When a parking space study is required for a particular use shown on table 10-19-1 of section [10-19-11](#) of this chapter, or when an applicant requests a modification in the number of parking spaces required under section [10-19-6](#) of this chapter, a parking study shall be provided by the applicant which recommends an adequate number of parking spaces and sets forth the basis of the recommendation.
 - 1. The study shall provide:
 - a. Planning and traffic engineering data, including estimates of parking demand based on recommendations from the Institute of Parking Engineers;
 - b. Data collected from uses or combinations of uses that are the same or comparable to the proposed project as indicated by density, scale, bulk, area, type of activity, and location;
 - c. The source of data used to develop the study's recommendations; and
 - d. The name and qualifications of the persons who prepared the study.
 - 2. The planning commission shall determine the required number of parking spaces after:
 - a. Considering the recommendations of the parking study and any recommendations from the city engineer; and
 - b. Making the findings required under subsection C or D of this section.

10-19-11: TABLES AND FIGURES

**TABLE 10-19-1
OFF STREET PARKING SCHEDULE**

Use Type	Minimum Standard	Notes/Additional Standard
Agricultural uses:		
Agricultural business	1 space per employee on highest employment shift	
Agricultural processing	1 space per employee on highest employment shift	
Residential uses:		
Assisted living facility	1 space per 5 beds	
Dwelling, multiple-family	Studio and 1 bedroom units: 1.5 spaces per dwelling unit	
	2 or more bedroom units: 2 spaces per dwelling unit	
Dwelling, single-family	2 spaces per dwelling unit	
Dwelling, single-family with accessory apartment	3 spaces per dwelling unit	
Dwelling, temporary	2 spaces per dwelling unit	
Dwelling, two-family	2 spaces per dwelling unit	
Guesthouse	1 space per dwelling unit	
Protective housing facility	1 space for every 4 residents, plus 1 space per employee on highest employment shift	
Rehabilitation/treatment facility	0.5 space per bed	
Residential facility for elderly or persons with a disability	1 space for every 4 residents, plus 1 space per employee on highest employment shift	
Transitional housing facility	1 space for every 4 residents, plus 1 space per employee on highest employment shift	
Public and civic uses:		
Auditorium or stadium	1 space per 6 seats of total seating capacity plus 1 space per 100 square feet of assembly area within the main auditorium where there are no fixed seats	Each 18 inches of bench space shall be considered as 1 seat
Cemetery	Parking study required	See subsection 10-19-10E of this chapter
Church or place of worship	1 space per 3.5 seats of total seating capacity plus 1 space per 100 square feet of assembly area within the main auditorium where there are no fixed seats	Each 18 inches of bench space shall be considered as 1 seat
Club or service organization	1 space per 6 seats of total seating capacity plus 1 space per 100 square feet of assembly area within the main auditorium where there are no fixed seats	Each 18 inches of bench space shall be considered as 1 seat
College or university	Parking study required	See subsection 10-19-10E of this chapter
Convalescent care facility	1 space per 5 beds plus 1 space per employee on highest employment shift	
Correctional facility	Parking study required	See subsection 10-19-10E of this chapter
Cultural service	1 space per 300 square feet of gross floor area	
Golf course	4 spaces per hole, plus 1 space per driving range tee	Storage area for golf carts and maintenance vehicles shall be provided
Government service	1 per 200 square feet of gross floor area	
Hospital	1 space per bed	
Operations center	4 spaces, plus 1 space per employee on highest employment shift	
Park	Parking study required	See subsection 10-19-10E of this chapter
Post office	2 spaces, plus 1 space per 200 square feet of gross floor area	Loading zone and storage area for mail vehicles shall be provided
Protective service	4 spaces, plus 1 space per employee on highest employment shift	
Reception center	1 space per 6 seats of total seating capacity plus 1 space per 100 square feet of assembly area within the main auditorium where there are no fixed seats	
School, elementary, middle, high, and vocational	1 space per employee, plus 2 spaces per classroom and 1 space for every 3 students of driving age	

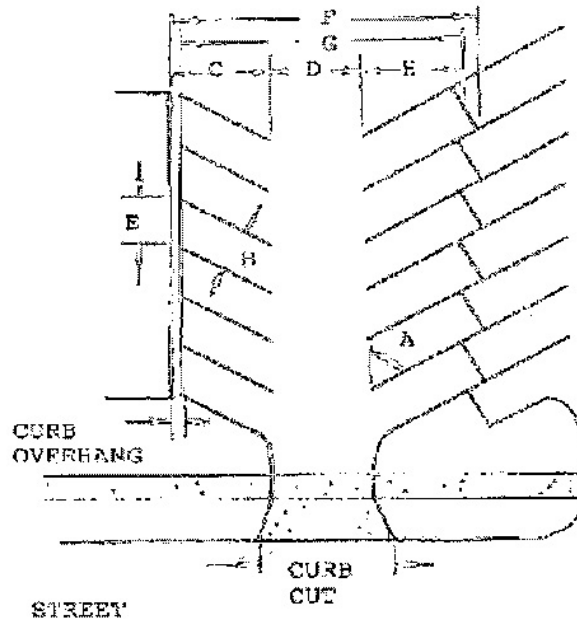
Stable	Parking study required	See subsection 10-19-10E of this chapter
Transportation terminal	Parking study required	See subsection 10-19-10E of this chapter
Utility, major	Parking study required	See subsection 10-19-10E of this chapter
Commercial uses:		
Agricultural sales and service	4 spaces, plus 1 space per employee on highest employment shift	Storage area for vehicles for sale or under repair shall be provided
Animal hospital	5 spaces per doctor	
Bank or financial institution	2 spaces, plus 1 space per 200 square feet of gross floor area	Plus stacking spaces per subsection 10-19-6D1 of this chapter
Bed and breakfast	1 space per guestroom, plus 3 spaces for host family/proprietor	
Business equipment rental and supplies	1 space per 250 square feet of gross floor area	
Car wash	1 space per employee	Plus stacking spaces per subsection 10-19-6D2 of this chapter
Construction sales and service	1 space per 250 square feet of gross floor area	Storage area for vehicles for sale or under repair shall be provided
Convenience store	1 space per 200 square feet of gross floor area	Minimum of 5 spaces
Family child daycare facility	1 space for every 5 children authorized	
Family child group care facility	1 space for every 5 children authorized	
Family childcare center	4 spaces, plus 1 space per 500 square feet of gross floor area	
Family childcare facility	1 space per employee on highest employment shift, plus 1 space for every 5 children authorized	
Funeral home	5 spaces, plus 1 space per 35 square feet of assembly room floor area	
Gasoline service station	1 space per 250 square feet of gross floor area	Plus stacking spaces per subsection 10-19-6D3 of this chapter
Hotel	2 spaces plus 1 space per living or sleeping unit	
Kennel	1 space per 600 square feet of gross floor area	
Laundry or dry cleaning, limited	1 space per 250 square feet of gross floor area	
Liquor store	1 space per 250 square feet of gross floor area	
Medical service	6 spaces per doctor	
Motel	2 spaces plus 1 space per living or sleeping unit	
Office, general	1 space per 250 square feet of gross floor area	8 spaces minimum
Personal care service	1 space per 250 square feet of gross floor area, plus 1 space per employee on highest employment shift	
Personal instruction service	0.50 space per person under maximum occupancy allowed by fire code, plus 1 space per employee on highest employment shift	
Printing and copying, limited	1 space per 250 square feet of gross floor area	5 spaces minimum
Printing, general	1 space per 250 square feet of retail or office area, plus 1 space for every 500 square feet of additional building area	
Produce stand	6 spaces	Exempt from landscaping and paving requirements
Recreation facility, indoor	Bowling alley: 5 spaces per alley plus 2 spaces per billiard table Movie theater: 1 space per 4 seats Tennis, handball and racquetball courts: 3 spaces per court Other uses: 1 space per 300 square feet of gross floor area	
Recreation facility, outdoor	Parking study required	See subsection 10-19-10E of this chapter
Repair service	1 space per 250 square feet of retail or office area, plus 1 space for every 500 square feet of additional building area	
Restaurant, fast food	1 space for each 3.5 seats or each 100 square feet of gross floor area, whichever is greater	Plus stacking spaces per subsection 10-19-6D4 of this chapter
Restaurant, general	1 space for each 3.5 seats or each 100 square feet of gross floor area, whichever is greater	10 spaces minimum
Retail, general	1 space per 250 square feet of gross floor area	

Shopping center	1 space per 250 square feet of gross floor area, up to 500 spaces	For shopping centers containing more than 500 spaces, 1 space per 500 square feet of gross floor area
Tattoo establishment	1 space per 250 square feet of gross floor area	2 spaces minimum
Tavern	1 space per 100 square feet of gross floor area	10 spaces minimum
Transportation service	Parking study required	See subsection 10-19-10E of this chapter
Vehicle and equipment rental or sale	1 space per 250 square feet of gross floor area, plus 1 space for every 10 vehicles displayed	4 spaces minimum
Vehicle and equipment repair	1 space per 250 square feet of gross floor area	4 spaces minimum; separate storage area for vehicles under repair shall be provided
Veterinary service	5 spaces per doctor	
Warehouse, self-service storage	1 space per employee on highest employment shift	
Wireless telecommunication facility	None	
Industrial uses:		
Automobile wrecking yard	1 space per 1,000 square feet of gross floor area or 1 space per employee on highest shift, whichever is greater	
Freight terminal	1 space per 1,000 square feet of gross floor area or 1 space per employee on highest shift, whichever is greater	
Heavy industry	1 space per 1,000 square feet of gross floor area or 1 space per employee on highest shift, whichever is greater	
Junk or salvage yard	1 space per 1,000 square feet of gross floor area or 1 space per employee on highest shift, whichever is greater	
Laundry services	1 space per 1,000 square feet of gross floor area or 1 space per employee on highest shift, whichever is greater	
Manufacturing	1 space per 1,000 square feet of gross floor area or 1 space per employee on highest shift, whichever is greater	
Mineral extraction	1 space per 1,000 square feet of gross floor area or 1 space per employee on highest shift, whichever is greater	
Wholesale and warehousing	1 space per 1,000 square feet of gross floor area or 1 space per employee on highest shift, whichever is greater	

TABLE 10-19-2
PARKING SPACE AND AISLE DIMENSIONS (IN FEET)

Dimension Factors							
A	B	C	D	E	F	G	H
Two-Way Aisle							
90°	9	20	24	9	64	62	20
75°	9	21.8	24	9.3	66.5	57	20.7
60°	9	22.0	24	10.4	65.9	61.8	19.9
45°	9	20.5	24	12.7	64.4	57.8	17.9
One-Way Aisle							
75°	9	21.8	17	9.5	59.5	56.4	20.7
60°	9	22.0	15	10.4	56.9	52.8	19.9
45°	9	20.5	13	12.7	51.4	46.8	17.9

FIGURE 10-19-1
PARKING SPACE AND AISLE ILLUSTRATION



Adopted by Ord. 2007-02 on 7/11/2007

Chapter 20: OUTDOOR LIGHTING

10-20-1: PURPOSE

10-20-2: OUTDOOR LIGHTING PLAN REQUIRED

10-20-3: GENERAL PROVISIONS

10-20-4: EXEMPTIONS

10-20-5: PARKING LOT LIGHTING

10-20-6: LIGHTING OF GASOLINE STATION/CONVENIENCE STORE CANOPIES

10-20-7: LIGHTING OF EXTERIOR SALES/DISPLAY AREAS

10-20-8: LIGHTING OF OUTDOOR SPORTS OR PERFORMANCE FACILITIES

10-20-9: SECURITY LIGHTING

10-20-10: SIGN LIGHTING

10-20-1: PURPOSE

The purpose of this chapter is to regulate the placement, orientation, distribution patterns and fixture types of outdoor lighting installed in the city.

Adopted by Ord. 2007-02 on 7/11/2007

10-20-2: OUTDOOR LIGHTING PLAN REQUIRED

An outdoor lighting plan shall be submitted in conjunction with an application for site plan approval of any multiple residential, commercial, or industrial project and shall include the following information:

- A site plan, drawn to a scale of one inch (1") equaling no more than twenty feet (20'), showing the location, height, manufacturer, model, lamp type, lumen output and wattage of each outdoor lighting fixture in relationship to buildings, streets and parking areas.
- An Isolux plan showing the levels of illumination, in foot-candles, that would result at ground level from the lighting installation.
- A certification that the lighting fixtures to be installed are fully shielded, cutoff type fixtures that will not allow light dispersion or direct glare to shine above a ninety degree (90°) horizontal plane from the base of the fixture.
- A certification that the exterior lighting will comply with the maintained horizontal illuminance recommendations of the Illuminating Engineering Society of North America.

Adopted by Ord. 2007-02 on 7/11/2007

10-20-3: GENERAL PROVISIONS

- Infiltrating Other Property:** Lighting of signs, buildings and displays shall be directed downward. Uplighting shall be prohibited; provided that in landscaped areas uplighting may be allowed. No spotlight or floodlight shall be installed which directly shines onto an adjacent property.
- Obstructing Intersections:** At a street intersection no light or sign shall be erected which obstructs clear vision or which obstructs the view of, or may be confused with, an authorized traffic sign.
- Electrical Service:** Electrical service to outdoor lighting fixtures shall be underground unless fixtures are mounted directly on utility poles.

Adopted by Ord. 2007-02 on 7/11/2007

10-20-4: EXEMPTIONS

The following types of outdoor lighting shall be exempt from the provisions of this chapter:

- Holiday lighting during the months of November, December and January. Such lighting shall not create dangerous glare on an adjacent street or property.
- Temporary lighting for a period not to exceed thirty (30) days.

- C. Lighting associated with agricultural operations.
- D. Construction or emergency lighting, provided that such lighting is temporary and is discontinued immediately upon completion of the construction work or abatement of the emergency circumstances necessitating such lighting.
- E. Roadway lighting.

Adopted by Ord. 2007-02 on 7/11/2007

10-20-5: PARKING LOT LIGHTING

Parking lot lighting shall be controlled to prevent glare and avoid light directed at neighboring property. Parking lot lighting shall not be used to draw attention to a business.

- A. Parking lot lighting shall be installed at a maximum height of twenty feet (20') in residential zones and twenty five feet (25') in commercial, industrial and public facility zones. Height shall be measured from the ground surface being illuminated to the bottom of the lighting fixture.
- B. Parking lot lighting shall be designed so the minimum illumination at grade level is between two-tenths (0.2) and three-tenths (0.3) foot-candle in residential zones and between three-tenths (0.3) and five-tenths (0.5) foot-candle in commercial, industrial and public facility zones.

Adopted by Ord. 2007-02 on 7/11/2007

10-20-6: LIGHTING OF GASOLINE STATION/CONVENIENCE STORE CANOPIES

Gasoline station and convenience store canopies shall provide adequate lighting for customers but such lighting shall not be so intense as to be as an attention getting device for the business, as provided in this section.

- A. Lighting fixtures in the ceiling of canopies shall be fully recessed in the canopy.
- B. Light fixtures shall not be mounted on the top or fascia of such canopies.
- C. The fascia of such canopies shall not be illuminated, except for approved signage.

Adopted by Ord. 2007-02 on 7/11/2007

10-20-7: LIGHTING OF EXTERIOR SALES/DISPLAY AREAS

The following provisions apply to any business which relies on outdoor display of merchandise, such as automobile, heavy equipment and recreational vehicle dealerships.

- A. Areas designed for parking or passive display of merchandise shall be lighted in accordance with the standards for parking lots in section [10-20-5](#) of this chapter.
- B. Light fixtures shall be shielded, cutoff type fixtures located, mounted and aimed so that direct light is not cast onto adjoining streets or properties.
- C. Light fixtures shall be installed at a height not to exceed twenty five feet (25').
- D. Exterior display/sales areas shall be designed so that the minimum illumination at grade level is between one and five (5) foot-candles.

Adopted by Ord. 2007-02 on 7/11/2007

10-20-8: LIGHTING OF OUTDOOR SPORTS OR PERFORMANCE FACILITIES

- A. A lighting plan submitted with a site plan for an outdoor sports or performance facility shall be prepared by a qualified lighting designer, experienced in lighting such facilities. The plan shall demonstrate that the location, selection, and aiming of the lighting fixtures will focus light on the playing or performing areas, minimize glare and visibility from neighboring areas, and promote energy efficiency.
- B. A dual lighting system shall be provided. The primary system shall be adequate for the sports or performing event. The primary system shall be shut off within forty five (45) minutes of the conclusion of the event. The secondary system shall be designed to facilitate the exiting of patrons, cleanup, and maintenance.

Adopted by Ord. 2007-02 on 7/11/2007

10-20-9: SECURITY LIGHTING

Adequate lighting shall be provided to protect persons and property and to allow for the proper functioning of surveillance equipment as provided in this section.

- A. Security lighting plan shall utilize shielded fixtures. Floodlights shall not be permitted.
- B. Vertical features, such as walls of a building, may be illuminated for security to a height of eight feet (8') above grade.
- C. Security lighting poles shall not exceed twenty feet (20') in height in residential zones and twenty five feet (25') in height in commercial, industrial or public facility zones.
- D. Security lights intended to illuminate a perimeter, such as a fence line, shall be allowed only if regulated by a motion detection system that triggers the lighting when an intruder moves to within twenty five feet (25') of the perimeter.
- E. The average horizontal grade level or vertical surface illumination of security lighting in residential zones shall not exceed one-half (0.5) foot-candle. The average horizontal grade level illumination of security lighting in commercial, industrial or public facility zones shall not exceed one and one-half (1.5) foot-candles.

Adopted by Ord. 2007-02 on 7/11/2007

10-20-10: SIGN LIGHTING

Externally illuminated signs shall be served by shielded and downward directed light fixtures. The average level of illumination on a sign face shall not exceed three (3) foot-candles.

Adopted by Ord. 2007-02 on 7/11/2007

Chapter 21: SIGNS

10-21-1: PURPOSE

10-21-2: SCOPE

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10-21-1: PURPOSE

The purpose of this chapter is to protect and promote the health, safety and welfare of city residents by regulating the design, construction and installation of signs to achieve the following objectives:

- A. To provide a reasonable system for controlling signs within the city.
- B. To permit signs that are well designed and pleasing in appearance, while allowing variety, good design relationships and spacing between signs and adjacent buildings.
- C. To foster a community character which has a minimum of visual clutter.
- D. To enhance the economic strength of the city by regulating matters such as sign size, location, design and illumination.
- E. To provide on site identification and public convenience by directing persons to various commercial and noncommercial activities.
- F. To encourage signs that are compatible with adjacent land uses.
- G. To minimize traffic and safety hazards.

Adopted by Ord. 2007-02 on 7/11/2007

10-21-2: SCOPE

The provisions of this chapter shall apply to the display, construction, erection, alteration, use, location and maintenance of any sign within the city which is visible to the public from a public right of way unless the sign is legally nonconforming under the provisions of this title or is not regulated under the provisions of this chapter. The requirements of this chapter shall not be construed to prohibit or limit other applicable provisions of this title, this code, or other laws.

Adopted by Ord. 2007-02 on 7/11/2007

10-21-3: PERMIT REQUIRED

A sign permit shall be issued prior to the erection, installation, or use of any sign for which a permit is required by a provision of this chapter. Such permit is distinct from any other permit that may be required by applicable provisions of this code and shall be issued in accordance with the procedures set forth in section [10-5-17](#) of this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-21-4: PROHIBITED SIGNS AND DEVICES

A. Prohibited Signs: The following signs and devices are prohibited:

- 1. Animated sign.
- 2. Movable (portable) sign, except when permitted as a temporary sign in accordance with the provisions set forth in section [10-21-6](#) of this chapter.
- 3. Roof sign.
- 4. Graffiti.
- 5. Off premises sign (including a billboard).
- 6. Projecting sign.
- 7. Spotlights directed into the night sky, except as permitted by a temporary use permit issued pursuant to the provisions of chapter 29 of this title.
- 8. Balloons, including cold air, helium, and other balloons used for commercial advertising purposes or to direct attention to a place of business.
- 9. Flags, pennants, streamers or other decorative materials used for commercial advertising purposes or to direct attention to a place of business.

B. Unlawful Prohibition: If any of the foregoing signs are deemed lawful by a court of competent jurisdiction, such signs shall be permitted.

Adopted by Ord. 2007-02 on 7/11/2007

10-21-5: EXEMPT SIGNS

Any sign not regulated by the provisions of this chapter shall be permitted and shall not require a sign permit.

Adopted by Ord. 2007-02 on 7/11/2007

10-21-6: TEMPORARY SIGNS

In addition to signs permitted by right under section [10-21-8](#) of this chapter, one or more temporary signs, up to thirty (30) square feet in total area, may be placed on a lot for which a temporary use permit has been issued pursuant to chapter 29 of this title. Such signs shall:

- A. Not require a sign permit.
- B. May include any lawful commercial or noncommercial message.
- C. Be limited to A-frame, banner, freestanding, movable, or wall signs.
- D. Be removed upon the expiration of the associated temporary use permit.

Adopted by Ord. 2007-02 on 7/11/2007

10-21-7: SUBDIVISION SIGNS

In addition to signs permitted by right under section [10-21-8](#) of this chapter, one nonilluminated, low profile sign shall be permitted per exclusive entrance to a subdivision, subject to the following provisions. Such signs shall require a sign permit and may include any lawful commercial or noncommercial message.

- A. Area: The total area of each sign shall not exceed twenty four (24) square feet.
- B. Location: A low profile subdivision sign may be located in a required front yard provided:
 - 1. The sign is not higher than four feet (4') above finished grade.
 - 2. The sign is at least three feet (3') from a front or street side lot line.

Adopted by Ord. 2007-02 on 7/11/2007

10-21-8: SIGNS PERMITTED BY RIGHT

The following signs shall be allowed by right subject to the following provisions and shall not require a sign permit. Such signs may include any lawful commercial or noncommercial message.

- A. Agricultural Or Residential Zones: Any type or number of signs shall be permitted on a lot in an agricultural or residential zone, provided:
 - 1. The total area of all signs is not more than six (6) square feet.
 - 2. No sign is higher than three feet (3').
 - 3. Each sign is at least five feet (5') from a front or street side lot line.
- B. Public Facility, Commercial, And Industrial Zones: The following signs shall be permitted on a lot in a public facility, commercial, or industrial zone:
 - 1. Wall Sign: Any number of wall signs may be permitted, provided the total area of all wall signs is not more than thirty (30) square feet.
 - 2. Freestanding Sign: One freestanding sign shall be permitted, provided:
 - a. No sign is higher than four feet (4').
 - b. The sign is at least ten feet (10') from a front or street side lot line.
 - c. The total area of the sign does not exceed thirty (30) square feet.

Adopted by Ord. 2007-02 on 7/11/2007

10-21-9: SIGNS IN COMMERCIAL ZONES

In addition to signs permitted by right under section [10-21-8](#) of this chapter, the following signs shall be allowed in a commercial zone subject to the following provisions. Such signs shall require a sign permit and may include any lawful commercial or noncommercial message.

- A. Wall Signs: Any number of wall signs may be permitted, provided the total area of all wall signs on a building elevation does not exceed fifteen percent (15%) of the wall area where the sign is attached.
- B. Low Profile Signs: One low profile sign shall be allowed for each separately owned lot with a single tenant building subject to the following requirements:
 - 1. Each lot shall have at least thirty feet (30') of street frontage.
 - 2. Each low profile sign shall have an opaque pedestal designed as part of the foundation which conceals pole support.
 - 3. Sign height shall not exceed seven feet (7'). The combined height of a sign located on a berm shall not exceed ten feet (10') as measured from the nearest top back of curb.
 - 4. A low profile sign shall be located at least three feet (3') from any adjacent property line and at least thirty five feet (35') from another low profile sign.
 - 5. A corner lot with more than one street frontage may have one low profile sign for each frontage which is thirty feet (30') or more.
 - 6. The area of a low profile sign shall not exceed one-half (0.5) square foot for every one linear foot of street frontage with a minimum sixteen (16) square feet and a maximum of eighty (80) square feet for any such sign.
- C. Freestanding Signs: A freestanding sign which exceeds thirty (30) square feet may be located in a commercial zone subject to the issuance of a conditional use permit. Such sign shall be not more than two hundred (200) square feet in area and thirty feet (30') in height.

Adopted by Ord. 2007-02 on 7/11/2007

10-21-10: SIGNS IN INDUSTRIAL ZONES

In addition to the signs permitted by right under section [10-21-8](#) of this chapter, the following signs shall be allowed in an industrial zone subject to the following provisions. Such signs shall require a sign permit and may include any lawful commercial or noncommercial message.

- A. Wall Signs: The regulations of section [10-21-9](#) of this chapter shall apply.
- B. Low Profile Signs: The regulations of section [10-21-9](#) of this chapter shall apply. Not more than one low profile sign shall be allowed per required street frontage for any lot in an industrial zone.
- C. Freestanding Signs: Freestanding signs shall not be permitted.

Adopted by Ord. 2007-02 on 7/11/2007

10-21-11: DEVELOPMENT STANDARDS

The following development standards shall apply to any sign regulated by the provisions of this chapter:

- A. Area Computation: The measured area of a sign shall be the entire area within the smallest square, circle, rectangle, or triangle enclosing the limits of a writing, representation, emblem, or any figure of similar character, together with any material or color forming an integral part of the sign display.
 - 1. The supports, uprights, or structure on which any sign is supported shall not be included in determining sign area unless such supports, uprights, or structure are designed in such a manner as to form an integral part of the sign display.
 - 2. The total area of a sign painted or mounted on a marquee, fascia, canopy, or awning shall be limited to the area allowed for a wall sign on the face of the building where the sign is located and shall be considered a wall sign. When an awning, canopy, marquee or fascia is constructed of translucent material, is illuminated from within the structure, and contains sign copy, the entire area of the structure shall be calculated in the allowance for a wall sign.

- B. Building Codes: A sign shall be installed and constructed in accordance with provisions of applicable building codes.
- C. Clearance:
1. No sign shall be erected or maintained which has less horizontal or vertical clearance from communication lines and electrical power lines than prescribed by the laws of the state of Utah or its agencies.
 2. Adequate clearance shall be provided between the ground or sidewalk and any part of a wall sign projecting more than twelve inches (12") from a building or other support, particularly in pedestrian and vehicular areas.
 3. A freestanding sign shall not extend over any pedestrian or vehicular access area.
- D. Electrical Power Supply: Electrical wiring, conduit, and appurtenances for a sign shall be underground or concealed behind a building wall or fascia.
- E. Height: No sign shall be taller than the height permitted for buildings in the zone where the sign is located. No freestanding sign shall exceed twenty five feet (25') in height except as allowed by a conditional use permit approved pursuant to a provision of this chapter.
- F. Illumination: A lighted sign shall be illuminated indirectly. In no case shall direct rays of light be permitted to penetrate property in a residential zone.
- G. Landscaping: Unless otherwise provided in this chapter, the ground space within a radius of ten feet (10') from the base of a low profile or freestanding sign shall be landscaped and maintained in accordance with the landscaping standards set forth in this title.
- H. Pole Covers: Structural supports for a freestanding sign shall be covered or concealed with pole covers which are at least twenty five percent (25%) of the width of the sign cabinet.
1. A pole cover shall be harmonious in design and finish with other parts of the sign and shall be architecturally designed to match the building which the sign serves.
 2. Square tube supports may be used instead of pole covers, provided that such supports are:
 - a. Monolithic in appearance from grade to the bottom of the sign with no increase or reduction in size or dimension;
 - b. Proportionate to the size of the sign copy area;
 - c. Harmonious in design and finish with other parts of the sign; and
 - d. Architecturally designed to match buildings on the lot or parcel where the sign is located.
- I. Relocation And Replacement: No sign shall be moved to a new location on a lot or building, or enlarged or replaced unless the sign complies with the provisions of this chapter.
- J. Separation: A freestanding sign shall be located at least one hundred feet (100') from another freestanding sign located on the same or immediately adjoining lot. In addition to the foregoing separation requirement, a freestanding sign shall be set back from a side lot line a distance equal to or greater than the height of the sign.
- K. Setback: All business signs shall be set back from public streets a distance at least equal to the distance that buildings are required to be set back within the zone in which the signs are located.
- L. Signs On Public Property: No privately owned sign shall be located within a public right of way.
- M. Traffic Hazard: No sign or advertising device shall be erected in a manner that:
1. Obstructs free and clear vision of traffic.
 2. May be confused or interfere with an authorized traffic sign, signal, or device.
- N. Maintenance: Every sign and any required landscaping shall be maintained in good condition and kept free of weeds and debris.

Adopted by Ord. 2007-02 on 7/11/2007

10-21-12: APPEAL

Any person adversely affected by a final decision of the planning commission or zoning administrator regarding the administration of this chapter may appeal that decision to the board of appeals as provided in section [10-5-21](#) of this title.

Adopted by Ord. 2007-02 on 7/11/2007

Chapter 22: SUPPLEMENTARY DEVELOPMENT STANDARDS

10-22-1: PURPOSE

10-22-2: SCOPE

10-22-3: ABANDONED, WRECKED, OR JUNK VEHICLES

10-22-4: ADEQUATE PUBLIC FACILITIES

10-22-5: ACCESSORY USES AND STRUCTURES

10-22-6: BUILDABLE AREA

10-22-7: CONDOMINIUM PROJECTS

10-22-8: EASEMENTS

10-22-9: EFFECT OF MASTER STREET PLAN

10-22-10: FENCES AND WALLS

10-22-11: FLAG LOTS

10-22-12: HEIGHT EXCEPTIONS AND LIMITATIONS

10-22-13: LAND EXCAVATION

10-22-14: LOTS AND YARDS

10-22-15: PROTECTION STRIPS

10-22-16: POLLUTION PREVENTION

10-22-17: PRIVATE OR INDIVIDUALLY OWNED WATER AND SEWAGE DISPOSAL REQUIREMENTS

10-22-18: STORAGE OF TRASH AND DEBRIS PROHIBITED

10-22-19: RESPONSIBILITY FOR UNSIGHTLY CONDITIONS

10-22-1: PURPOSE

This chapter establishes several miscellaneous land development regulations which are applicable throughout the city regardless of zone.

Adopted by Ord. 2007-02 on 7/11/2007

10-22-2: SCOPE

The requirements of this chapter shall apply in addition to the development and use standards set forth in other chapters of this title. The requirements of this chapter shall not be construed to prohibit or limit other applicable provisions of this title, this code, and other laws; provided that the requirements of

this chapter shall prevail over conflicting provisions of any other requirement in this title unless a different standard is expressly authorized.

Adopted by Ord. 2007-02 on 7/11/2007

10-22-3: ABANDONED, WRECKED, OR JUNK VEHICLES

- A. Abandoned Vehicles Prohibited: It shall be unlawful to park or permit the parking of any licensed or unlicensed motor vehicle or parts thereof in an abandoned condition upon any public or private property within the city except as follows:
1. In any residential or agricultural zone, two (2) or less such vehicles or parts thereof may be stored in a building or within a rear yard; or
 2. In a commercial or industrial zone, any number of such vehicles or parts thereof may be permitted if:
 - a. Such use is authorized in the zone where the use is located, and
 - b. Vehicles and parts thereof are stored within a building or are completely screened by a six foot (6') high opaque, sight obscuring fence.
- B. Nuisance: The accumulation and storage of more than the permitted number of vehicles or parts thereof on private or public property except as set forth above shall constitute a nuisance, detrimental to the health, safety, and welfare of the inhabitants of the city. It shall be the duty of the owner of such vehicle or parts thereof, or lessee, or other person in possession of private property upon which such vehicle or parts thereof is located, to remove the same from such property.

Adopted by Ord. 2007-02 on 7/11/2007

10-22-4: ADEQUATE PUBLIC FACILITIES

Land shall be developed only where existing infrastructure is in place or will be timely provided to service proposed development. The city may require an analysis to be completed to determine whether adequate public facilities are available to service a development and whether such development will change existing levels of service or will create a demand which exceeds acceptable levels of service for roadways, intersections, bridges, storm drainage facilities, water lines, water pressure, sewer lines, fire and emergency response times, and other similar public services. The city may disapprove a proposed development if demand for public services exceeds accepted levels of service. No subsequent approval of such development shall be given until either the developer or the city installs improvements calculated to raise service levels to the standard adopted by the city.

Adopted by Ord. 2007-02 on 7/11/2007

10-22-5: ACCESSORY USES AND STRUCTURES

Accessory uses and structures shall be permitted in all zones provided they are incidental to, and do not substantially alter a principal use or structure.

- A. Front Yard: No accessory building or structure nor group thereof shall be located in a front yard unless expressly authorized by a provision of this title.
- B. Rear Yard: No accessory building nor group of accessory buildings in any residential zone shall cover more than twenty five percent (25%) of a rear yard.
- C. Accessory Buildings Prohibited As Living Quarters: Living or sleeping quarters in any building, other than the main residential building, are prohibited except as expressly provided by a provision of this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-22-6: BUILDABLE AREA

Every lot created after the effective date of this title shall have a buildable area sufficient to place a building or structure thereon which meets the minimum standards of the zone where the lot is located. Buildable area shall be depicted on a proposed subdivision plat, site plan, or plot plan for the purpose of notifying future owners of the approved buildable area based on applicable development standards. Area within an easement may not be included within buildable area unless the easement beneficiary executes and records a release of the easement in a form acceptable to the city attorney.

Adopted by Ord. 2007-02 on 7/11/2007

10-22-7: CONDOMINIUM PROJECTS

- A. State Law Requirements: The owner of real property may construct a new condominium project or convert existing land and/or structures into a condominium project by complying with the provisions of the condominium ownership act, as amended, and applicable provisions of this title and other titles of this code.
- B. Uses Permitted: Uses permitted within a condominium project shall be limited to those uses permitted within the zone in which a project is located.

Adopted by Ord. 2007-02 on 7/11/2007

10-22-8: EASEMENTS

No dwelling, main building, or permanent accessory building shall be located within a recorded easement area unless the property owner either produces evidence satisfactory to the zoning administrator that the easement has been abandoned, or executes a recordable document, in a form approved by the city attorney, indicating that notwithstanding apparent abandonment of the easement, the structure may be subject to the superior interest of the easement holder and may be required to be relocated at the property owner's expense to accommodate such interest.

- A. Location: Any structure in an easement area shall be located pursuant to the setback and other applicable requirements of this title.
- B. No Expansion Of Legal Rights: Nothing in this section is intended to expand or restrict the rights or obligations of any party to any recorded easement.

Adopted by Ord. 2007-02 on 7/11/2007

10-22-9: EFFECT OF MASTER STREET PLAN

Whenever a front or side yard is required for a building which abuts a street shown on the master street plan, the depth of such front or side yard shall be measured from the planned street line.

10-22-10: FENCES AND WALLS

- A. Height Of Fences And Walls: No fence, hedge, wall or other similar structure shall be erected to a height which exceeds the following:
1. In a required front or street side yard: Five feet (5').
 2. In a required interior side or rear yard: Seven feet (7').
 3. In a yard bordering the front yard of an adjoining lot: Four feet (4').
- B. Retaining Walls: When a retaining wall protects a cut below natural grade and is located on a line separating lots, such retaining wall may be topped by a fence, wall, or hedge of the same height that would otherwise be permitted at such location if no retaining wall existed.
- C. Fences In Front Or Side Yards: No opaque fence or wall or other similar structure exceeding forty eight inches (48") in height shall be erected within a required front yard.
- D. Swimming Pools: Swimming pools of permanent construction not enclosed within a building shall be set back at least five feet (5') from all property lines and shall be completely surrounded by a fence or wall having a lockable self-closing gate and a height of at least six feet (6') which conforms to building code requirements.
- E. Visual Obstructions: To avoid creating a visual obstruction and promote public safety, a fence, wall, sign, or other similar structure or landscaping located in a required front yard shall meet the following requirements:
1. No opaque fence, wall, sign, or other similar structure, or landscaping which exceeds two feet (2') in height shall be placed within a triangular area formed by a driveway line, the street property line, and a line connecting them at points twelve feet (12') along the driveway line and twelve feet (12') along the street property line, except for a reasonable number of trees pruned high enough to permit unobstructed vision for drivers of motor vehicles.
 2. No fence, hedge, wall, landscaping or other structure which obstructs clear view shall be placed on any corner lot within a triangular area formed by the street property lines and a line connecting them at points forty feet (40') from the intersection of the street lines, except a reasonable number of trees pruned high enough to permit unobstructed vision to automobile drivers.

10-22-11: FLAG LOTS

Flag lots for single-family dwellings located in an agricultural or residential zone may be allowed to accommodate the development of land that otherwise cannot reasonably be developed under the regulations contained in this title or other titles adopted by the city. The primary purpose of allowing flag lots is not to make development of land easier and more profitable. Rather, allowance of flag lots is intended to serve as a "last resort" for land which may not otherwise be reasonably subdivided under ordinary lot development standards.

- A. Factors To Be Considered: When land is subdivided, flag lots shall not be approved by right but may be allowed after considering the following:
1. More than two (2) flag lots with contiguous staffs shall not be approved.
 2. Whether development of the property in question under otherwise applicable provisions of this title is reasonable and practical.
 3. Creation of a flag lot shall not foreclose the possibility of future development of large adjacent interior lots unless a street can be extended to such lots from other property.
- B. Locational Limitations: Flag lots shall be created only on a legally created lot of record which abuts State Highway 38.
- C. Findings Required: Flag lots shall be prohibited unless all of the following findings are made:
1. The flag lot is located in an agricultural or rural residential zone.
 2. The developer provides written and illustratory evidence showing property development with and without proposed flag lots which demonstrates:
 - a. Flag lots will result in more efficient use of land.
 - b. The design of the flag lots are compatible with the design of the overall subdivision and adjacent property.
 - c. No other viable subdivision design alternatives exist that will allow for a conventional lot, including consideration of:
 - (1) The current, proposed, or alternative zoning;
 - (2) The possibility of incorporating the subject property with adjacent property to achieve a more unified development of the area and eliminate the need for a flag lot;
 - (3) Alternative street designs and improvements; and
 - (4) Any other reasonable means that would render a flag lot unnecessary.
 - d. Access to the flag lot is provided through the pole portion of the lot.
- D. Development Standards: When permitted, a flag lot shall be subject to the following development standards:
1. A flag lot shall be comprised of a staff (narrow) portion that is contiguous with a flag (wide) portion.
 2. The staff portion of the lot shall front on and be contiguous to a public street. The minimum width of the staff portion at any point shall be thirty three feet (33').
 3. The size of the flag portion of a lot shall conform to the minimum lot size requirement of the zone where the lot is located. Sufficient turnaround space for emergency vehicles shall be provided near the buildable area on the lot.
 4. The staff portion of a flag lot shall be:
 - a. Used only for ingress/egress.
 - b. Landscaped in harmony with other adjacent property.
 - c. Improved with a hard surface such as concrete, asphalt or compacted road base with a dust prevention treatment.
 5. The front yard of a flag lot shall be on the side of the flag portion which connects to the staff. Yard setbacks shall conform to the setback requirements of the zone in which the flag lot is located.
 6. A main building shall be located not more than three hundred feet (300') from a fire hydrant, measured along a public or private right of way or along the staff portion of a flag lot. An easement for any fire hydrant located on private property shall be provided to the city for access to and maintenance of the hydrant.
 7. Upon review the city may require installation of curb, gutter, and other drainage control measures in the staff portion of a flag lot to prevent runoff from entering neighboring properties.
 8. Clear address signage shall be installed and maintained at the street by the owner, including notice that the driveway is a private right of way.
 9. All improvements to or on a flag lot, including installation of the hard surface and fire hydrants, shall be provided at the subdivider's expense.

No certificate of occupancy shall be issued for the proposed flag lot until improvements are fully installed. Required improvements and applicable conditions of approval for a flag lot shall be constructed and bonded pursuant to chapter 33 of this title.

10. In addition to the above minimum requirements, the planning commission may, as part of a preliminary or final subdivision plat approval, impose additional conditions on a flag lot including, but not limited to, the following:
 - a. Fencing and screening requirements.
 - b. Location and height of the dwelling.
 - c. Installation of one or more fire hydrants.
 - d. Additional off street parking and/or backup space designed in accordance with standards set forth in [chapter 19](#) of this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-22-12: HEIGHT EXCEPTIONS AND LIMITATIONS

- A. Exceptions To Height Limitations: Roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, parapet walls, skylights, towers, steeples, flagpoles, chimneys, water tanks, wireless or television masts, theater lofts, silos or similar structures may be erected above the limits herein prescribed, but no space above the height limit shall be allowed for the purpose of providing additional floor space for human occupancy.
- B. Maximum Height Of Accessory Buildings: No building which is accessory to a single-family or a multiple-family dwelling with four (4) or fewer dwelling units shall be erected to a height greater than twenty feet (20') unless a greater height is authorized by a conditional use permit.
- C. Minimum Height Of Main Buildings: No dwelling shall be erected to a height less than one story above grade except earth sheltered dwellings authorized by the provisions of this title.
- D. Additional Height Allowed For Public Buildings: Public buildings and churches may be erected to any height, provided the building is set back from the required building setback lines a distance of at least one and one-half feet (1.5') for each additional foot of building height above the maximum height otherwise permitted in that zone.

Adopted by Ord. 2007-02 on 7/11/2007

10-22-13: LAND EXCAVATION

- A. Work Prohibited Without Conditional Use Permit: No person shall commence or perform any grading or excavation on an existing lot or for a gravel pit or rock quarry in excess of the limits specified below without first obtaining a conditional use permit for grading and excavation.
- B. Conditional Use Permit Required: A conditional use permit shall be required in all cases where development comes under any one or more of the following provisions, unless such work is exempted elsewhere in this section:
 1. Excavation, fill or any combination thereof exceeding one thousand (1,000) cubic yards.
 2. Fill exceeding five feet (5') in vertical depth at its deepest point measured from the adjacent undisturbed ground surface.
 3. An excavation exceeding five feet (5') in vertical depth at its deepest point.
 4. An excavation, fill or combination thereof exceeding an area of one acre.
 5. Vegetation removal from an area in excess of one acre.
- C. Conditional Use Permit Not Required: A conditional use permit shall not be required in the following cases:
 1. Excavations below finished grade for which a building permit is required and has been issued by the city, including, but not limited to, the following: septic tanks and drain fields, tanks, vaults, tunnels, equipment, basements, swimming pools, cellars or footings for buildings or structures.
 2. Excavation or removal of vegetation within property owned by a public utility company or within a public utility easement by a public utility company.
 3. Removal of vegetation as a part of the work authorized by an approved building permit.
 4. Tilling of soil or cutting of vegetation for agricultural or fire protection purposes.
 5. Commercial quarries operating with valid conditional use permits in appropriate industrial zones as provided for in this title.
 6. Engineered interior fills or surcharge on the property with respect to industrial development.
 7. Grading and/or excavation done pursuant to an approved final subdivision plat.
 8. Items not covered by this section which are exempted from required permits by the building code.

Adopted by Ord. 2007-02 on 7/11/2007

10-22-14: LOTS AND YARDS

- A. Every Building On Legally Created Lot: Every building shall be located and maintained on a legally created "lot" as defined in this title, unless such lot is a legally nonconforming lot.
 1. Such lot shall have required frontage on an existing or dedicated public street, or on an approved right of way.
 2. Only one dwelling structure shall be located on any lot except as otherwise authorized by the provisions of this title.
- B. Prior Created Lots: On any lot of record held under separate ownership at the time of passage of this title, such lot may be used for a single-family dwelling. The side yard requirements may be reduced in proportion to the reduced width of the front lot line of the property, but in no case shall the side yards be reduced to less than eight feet (8') on one side or twenty feet (20') combined.
- C. Sale Or Lease Of Required Land: No land needed to meet the size, width, yard, area, coverage, parking or other requirements of this title shall be sold, leased, or otherwise transferred away, whether by subdivision or metes and bounds, so as to create or increase the nonconformity of a lot, building, or site development.
 1. No lot having less than the minimum width and area required by the zone where it is located may be divided from a larger parcel of land, except as permitted by this section.
 2. If a portion of a lot which meets minimum lot area requirements is acquired for public use in any manner, including dedication, condemnation or purchase, and such acquisition reduces the minimum area required, the remainder of such lot shall nevertheless be considered as having the required minimum lot area if all of the following conditions are met:
 - a. The lot contains a rectangular space of at least thirty by forty feet (30 x 40') exclusive of applicable front and side yard requirements, an exclusive of one-half ($\frac{1}{2}$) of the applicable rear yard requirements, and such rectangular space is usable for a principal use or structure.
 - b. The remainder of the lot has an area of at least one-half ($\frac{1}{2}$) of the required lot area of the zone in which it is located.
 - c. The remainder of the lot has access to a public street.

- D. Adjacent Lots When Used As One Building Lot: When a common side lot line separating two (2) or more contiguous lots is covered or proposed to be covered by a building, such lots shall constitute a single building site and the setback requirements of this title shall not apply to a common lot line if a document is recorded indicating the owner's intent to use the combined lots as a single development site. The setback requirements of this title shall apply only to the exterior side lot lines of the contiguous lots so joined.
- E. Setback Measurement: The depth of a required yard abutting a street shall be measured from the lot line except on blocks where more than fifty percent (50%) of the buildable lots have main buildings which do not meet the current front yard setback of the zone where the block is located. In such case, the minimum front yard requirement for new construction shall be equal to the average existing front yard size on the block, up to a maximum of thirty feet (30').
- F. Yards To Be Unobstructed; Exceptions: Every part of a required yard shall be open to the sky and unobstructed except for:
1. Accessory buildings in a rear yard or interior side yard.
 2. The ordinary projections of window bays, roof overhangs, skylights, sills, belt courses, cornices, chimneys, flues and other ornamental features, which shall not project into a yard more than four feet (4').
 3. Open or lattice enclosed fire escapes, fireproof outside stairways and balconies open upon fire towers projecting into a yard not more than five feet (5').
 4. Any part of a deck or patio less than three feet (3') in height, excluding nonopaque railings.
 5. Landscaping and associated improvements.
- G. Yard Space For One Building Only: A required yard for any building shall be located on the same lot as the building. No required yard or other open space around an existing building, or which is hereafter provided around any building for the purpose of complying with the provisions of this title, shall be considered as providing a yard or open space for any other building, nor shall any yard or other required open space on an adjoining lot be considered as providing a yard or open space on a lot whereon a building is to be erected or established.
- H. Lot Coverage: In no zone shall a building or group of buildings with their accessory buildings cover more than fifty percent (50%) of the area of the lot.

Adopted by Ord. 2007-02 on 7/11/2007

10-22-15: PROTECTION STRIPS

When subdivision streets parallel contiguous property of others, the developer may, upon approval of the planning commission, retain a protection strip not less than one foot (1') in width between said street and adjacent property; provided, an agreement approved by the city attorney has been made by the subdivider contracting to deed to the owners of the contiguous property the one foot (1') or larger protection strip for a consideration named in the agreement. Such consideration shall be not more than the fair cost of the land in contiguous property plus the value of one-half (0.5) the land in the street at the time of agreement. One copy of the agreement shall be submitted to and approved by the city attorney and the planning commission prior to approval of a final plat. Protection strips shall not be approved at the end of a public street or proposed street.

Adopted by Ord. 2007-02 on 7/11/2007

10-22-16: POLLUTION PREVENTION

All state and local codes concerning air and water quality and solid waste disposal are hereby adopted by reference.

Adopted by Ord. 2007-02 on 7/11/2007

10-22-17: PRIVATE OR INDIVIDUALLY OWNED WATER AND SEWAGE DISPOSAL REQUIREMENTS

Before a building permit or use permit is granted, the proposed sewage disposal system and the culinary water system, where a nonmunicipal source is used, shall be approved pursuant to applicable law.

Adopted by Ord. 2007-02 on 7/11/2007

10-22-18: STORAGE OF TRASH AND DEBRIS PROHIBITED

No yard or other open space shall be used for the accumulation of trash, debris, or abandoned equipment and no land shall be used for such purposes, except as authorized by and in compliance with the provisions of this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-22-19: RESPONSIBILITY FOR UNSIGHTLY CONDITIONS

Failure of the city or planning commission to observe or recognize hazardous or unsightly conditions, or to recommend denial of a conditional use permit or subdivision because of such unrecognized hazardous or unsightly conditions, shall not relieve the developer or owner from responsibility for the condition or damages resulting therefrom. The city or planning commission, its officers or agents, shall not be held responsible for the conditions and damages resulting therefrom.

Adopted by Ord. 2007-02 on 7/11/2007

Chapter 23: WATER SOURCE PROTECTION

10-23-1: SHORT TITLE

10-23-2: PURPOSE

10-23-3: ESTABLISHMENT OF DRINKING WATER SOURCE PROTECTION ZONES

10-23-4: PERMITTED USES

10-23-5: PROHIBITED USES

10-23-6: ADMINISTRATION

10-23-1: SHORT TITLE

This chapter shall be known as the DRINKING WATER SOURCE PROTECTION ORDINANCE.

Adopted by Ord. 2007-02 on 7/11/2007

10-23-2: PURPOSE

The purpose of this chapter 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 and which are the supply sources for the city water system and by the designation and regulation of property uses and conditions which may be maintained within such zones.

Adopted by Ord. 2007-02 on 7/11/2007

10-23-3: ESTABLISHMENT OF DRINKING WATER SOURCE PROTECTION ZONES

There are hereby established use districts to be known as zones one, two, three, and four of the drinking water sources protection area, identified and described as follows:

- A. Zone one: An area within a one hundred foot (100') radius from the wellhead.
- B. Zone two: An area within a two hundred fifty (250) day ground water time of travel to the wellhead, the boundary of the aquifer(s) which supplies water to the ground water source, or the ground water divide, whichever is closer.
- C. Zone three: The area (waiver criteria zone) within a three (3) year ground water time of travel to the wellhead or margin of the collection area, the boundary of the aquifer(s) which supplies water to the ground water source, or the ground water divide, whichever is closer.
- D. Zone four: The area within a fifteen (15) year ground water time of travel to the wellhead, the boundary of the aquifer(s) which supplies water to the ground water source, or the ground water divide, whichever is closer.

Adopted by Ord. 2007-02 on 7/11/2007

10-23-4: PERMITTED USES

The following uses shall be permitted within drinking water sources protection zones:

- A. Any use permitted within an existing agricultural, single-family residential, multi-family residential, and commercial zone so long as uses conform to applicable regulations.
- B. Any other open land use where a building located on such land is incidental and accessory to the primary open land use.

Adopted by Ord. 2007-02 on 7/11/2007

10-23-5: PROHIBITED USES

The following uses or conditions are prohibited within a drinking water source protection zone, whether or not such use or condition may otherwise be ordinarily included as a part of a use permitted under section [10-23-4](#) of this chapter:

- A. Zone one: The location of any potential contamination source as defined in this title, unless it can be controlled with design standards.
- B. Zone two: The location of a "pollution source" as defined in this title, unless its contaminated discharges can be controlled with design standards.
- C. Zones three and four: The location of a potential contamination source unless it can be controlled through land management strategies.

Adopted by Ord. 2007-02 on 7/11/2007

10-23-6: ADMINISTRATION

The policies and procedures for administration of any source protection zone established under this chapter, including, without limitation, those applicable to a nonconforming use, exception, enforcement or penalty, shall be as provided in this title.

Adopted by Ord. 2007-02 on 7/11/2007

Chapter 24: ANIMALS AND FOWL

10-24-1: PURPOSE

10-24-2: PERMITTED ANIMAL AND FOWL UNITS

10-24-3: EXOTIC ANIMALS

10-24-4: DISTANCE BETWEEN BUILDINGS

10-24-5: SETBACKS

10-24-6: ANIMAL RESTRAINT

10-24-1: PURPOSE

This chapter governs the location of structures housing animals and the number of animals that may be kept on a lot for noncommercial purposes.

Adopted by Ord. 2007-02 on 7/11/2007

10-24-2: PERMITTED ANIMAL AND FOWL UNITS

Animals and fowl may be kept for recreation, family food production, and other noncommercial purposes on a lot located in an agricultural or residential zone. The number of animals permitted on a lot in separate ownership shall not exceed the following number of animal units:

- A. Under One Acre: On a lot which is less than one acre, up to one-half (0.5) animal unit shall be permitted for small and medium domestic animals only.
- B. First One Acre: On a lot which is at least one acre but less than one and one-half ($1\frac{1}{2}$) acres, two (2) animal units and two (2) fowl units shall be permitted.
- C. Additional Acres: For each additional one-half (0.5) acre of land included in a lot, one animal unit plus one fowl unit shall be permitted.

Adopted by Ord. 2007-02 on 7/11/2007

10-24-3: EXOTIC ANIMALS

Not more than two (2) exotic animals shall be kept on any lot regardless of the number of animal units permitted; provided, however, that no venomous animals shall be permitted except honeybees.

Adopted by Ord. 2007-02 on 7/11/2007

10-24-4: DISTANCE BETWEEN BUILDINGS

An accessory building or structure for animals or fowl which exceeds four hundred (400) square feet shall be separated from a main building as follows:

- A. Same Lot: Thirty feet (30') from a dwelling located on the same lot.
- B. Adjacent Lot: Fifty feet (50') from a dwelling located on an adjacent lot.
- C. Existing Or Proposed Street: Fifty feet (50') from an existing or proposed street.

Adopted by Ord. 2007-02 on 7/11/2007

10-24-5: SETBACKS

Accessory buildings and structures for animals or fowl shall have the following setbacks:

- A. Accessory Building: Setbacks for an accessory building for animals or fowl which exceeds four hundred (400) square feet shall be as follows:
 - 1. Front lot line: One hundred fifty feet (150').
 - 2. Side lot line: Twenty feet (20').
- B. Corrals And Manure: A corral, manure pile, or manure pit shall be set back from a main building as follows:
 - 1. Front lot line: Thirty five feet (35').
 - 2. Side lot line: Thirty five feet (35').

Adopted by Ord. 2007-02 on 7/11/2007

10-24-6: ANIMAL RESTRAINT

Animals shall be restrained to prohibit damage to or trespass upon adjacent property.

Adopted by Ord. 2007-02 on 7/11/2007

Chapter 25: HOME OCCUPATIONS

10-25-1: PURPOSE

10-25-2: SCOPE

10-25-3: PERMITTED USE

10-25-4: DEVELOPMENT STANDARDS; PERMITTED USE

10-25-5: CONDITIONAL USE PERMIT REQUIRED

10-25-6: DEVELOPMENT STANDARDS; CONDITIONAL USE

10-25-7: BUSINESS LICENSE; OTHER PERMITS

10-25-1: PURPOSE

The purpose of this chapter is to establish use and development regulations for home occupations. These regulations are intended to ensure that limited business activities allowed in a residential zone do not disturb the residential character of a neighborhood.

Adopted by Ord. 2007-02 on 7/11/2007

10-25-2: SCOPE

The requirements of this chapter shall apply to all home occupations within the city. Such requirements shall not be construed to prohibit or limit other applicable provisions of this title, this code, and other laws.

Adopted by Ord. 2007-02 on 7/11/2007

10-25-3: PERMITTED USE

- A. Permitted Uses: The home occupation uses set forth below shall be allowed as permitted uses in any agricultural or residential zone, or any other zone in which such uses are permitted uses, subject to the development standards of section [10-25-4](#) of this chapter. The definition of each use is set forth in [chapter 3](#) of this title.

Family child daycare facility.
Family child residential certificate care facility.
Office, general.
Personal care service (beauty, barbering and tailoring services only).
Personal instruction service.

- B. Prohibited Uses: Any use not listed in subsection A of this section shall be prohibited unless specifically authorized by a provision of this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-25-4: DEVELOPMENT STANDARDS; PERMITTED USE

The development standards set forth in this section shall apply to any home occupation allowed as a permitted use.

- A. Dwelling Unit Calculation: A home occupation in a multiple-family dwelling unit (3 or more units) shall be considered as one of the units in determining the allowable number of units.
- B. Ownership: A home occupation shall be owned and operated by a person who resides in the dwelling where the home occupation is located. Such person shall be the primary provider of the labor, work, or service provided in the home occupation.
- C. Business License: A business license for the home occupation shall be obtained from and continually maintained with the city as required by applicable provisions of this code.
- D. Employees: Members of the business licensee's family who reside in the dwelling may be employed in the home occupation.
- E. Fire Inspection: Every facility used in a home occupation shall be inspected by the fire department prior to initial use and shall meet fire department standards at all times.

- F. Hours Of Operation: Family child daycare, personal care, and personal instruction home occupations shall not be operated before six o'clock (6:00) A.M. or after nine o'clock (9:00) P.M.
- G. Inventory: Products produced pursuant to the home occupation may be kept on the premises. No other stock in trade, inventory, commodities, or other merchandise shall be kept on the premises for storage, wholesale, or retail sales, except for incidental or sporadic use.
- H. Modification Of Structures: There shall be no visible evidence from the exterior of a dwelling or structure that it is being used for any other purpose than that of a dwelling or accessory building.
- I. Nuisance: Tools, items, equipment, or activities conducted within a dwelling or accessory building which are offensive or noxious by reason of the emission of odor, smoke, gas, vibration, magnetic interference, or noise are prohibited.
- J. Secondary Use: The home occupation shall be clearly incidental and secondary to the primary use of the dwelling for residential purposes.
 - 1. The home occupation shall not disrupt the normal residential character of the neighborhood in which the residence is located.
 - 2. Not more than twenty five percent (25%) of the area of a dwelling unit shall be used for a home occupation.
 - 3. A home occupation shall not involve the use of any accessory building, yard space, or activity outside the main building not normally associated with residential use.
- K. Signs: No signs advertising a home occupation shall be permitted.
- L. Traffic, Parking, And Access: No home occupation use shall generate pedestrian, parking, or vehicular traffic in excess of that customarily associated with the zone in which the use is located.
 - 1. All drop off or customer parking shall be located on paved portions of the lot in accordance with the requirements of [chapter 19](#) of this title.
 - 2. Not more than two (2) customer parking spaces shall be created.
- M. Yards: Yards surrounding a dwelling unit and any accessory building shall not be used for any activities or storage of any materials or equipment associated with a home occupation.

Adopted by Ord. 2007-02 on 7/11/2007

10-25-5: CONDITIONAL USE PERMIT REQUIRED

- A. Issuance Of Conditional Use Permit: A home occupation use listed in section [10-25-3](#) of this chapter that does not conform to the development standards of section [10-25-4](#) of this chapter may be established in any residential zone subject to the issuance of a conditional use permit pursuant to the requirements of section [10-5-14](#) of this title and the development standards of section [10-25-6](#) of this chapter.
- B. Uses Allowed: When allowed as a conditional use in the zone in which the use is located, the following uses may be conducted in a dwelling unit subject to the issuance of a conditional use permit:
Family group child daycare facility.
Personal care service (other than beauty, barbering and tailoring services).
- C. Prohibited Uses: Any use not listed in section [10-25-3](#) of this chapter or subsection B of this section shall be prohibited unless specifically authorized by a provision of this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-25-6: DEVELOPMENT STANDARDS; CONDITIONAL USE

The development standards of section [10-25-4](#) of this chapter shall apply to any home occupation established as a conditional use unless expressly modified by a conditional use permit, except as provided in the following subsections:

- A. Neighborhood Disturbance: A home occupation shall not alter the residential character of the premises or unreasonably disturb the peace and quiet of the neighborhood, including radio and television reception, by reason of color, construction, design, lighting, materials, noises, sounds, or vibrations, or excessive traffic as reasonably determined by the zoning administrator.
- B. Promotional Meetings: Promotional meetings for the purpose of selling merchandise, taking orders, or training shall not be held more than one time per month.
- C. Utility Demand: A home occupation shall not cause a demand for public utilities in excess of that necessarily and customarily provided for residential uses.
- D. Outdoor Storage: A home occupation authorized under this section shall be conducted only within a fully enclosed building. Outdoor storage of any materials associated with a home occupation shall be prohibited.

Adopted by Ord. 2007-02 on 7/11/2007

10-25-7: BUSINESS LICENSE; OTHER PERMITS

Issuance of a home occupation permit shall not relieve the permit holder from obtaining a business license or other permit as may be required under applicable provisions of this code.

Adopted by Ord. 2007-02 on 7/11/2007

Chapter 26: PUBLIC UTILITY SUBSTATIONS

10-26-1: PURPOSE

10-26-2: SCOPE

10-26-3: PERMITTED USE

10-26-4: DEVELOPMENT STANDARDS; PERMITTED USE

10-26-5: CONDITIONAL USE PERMIT REQUIRED

10-26-6: DEVELOPMENT STANDARDS; CONDITIONAL USE

10-26-1: PURPOSE

The purpose of this chapter is to establish use and development regulations for public utility substations to ensure they are compatible with adjoining uses.

Adopted by Ord. 2007-02 on 7/11/2007

10-26-2: SCOPE

The requirements of this chapter shall apply to any public utility substation within the city. Such requirements shall not be construed to prohibit or limit other applicable provisions of this title, this code, and other laws.

Adopted by Ord. 2007-02 on 7/11/2007

10-26-3: PERMITTED USE

A public utility substation that conforms to the development standards of section [10-26-4](#) of this chapter shall be a permitted use in any zone.

Adopted by Ord. 2007-02 on 7/11/2007

10-26-4: DEVELOPMENT STANDARDS; PERMITTED USE

The development standards set forth in this section shall apply to any public utility substation established as a permitted use.

- A. Color: A public utility substation shall be painted or constructed of materials with earth tone colors.
- B. Fencing: The perimeter of a public utility substation site shall be fenced as needed to provide public safety or protect utility equipment.
- C. Landscaping: The perimeter of a public utility substation site shall be landscaped in accordance with a landscaping plan approved by the planning commission.
- D. Location: A public utility substation:
 - 1. May be located within the park strip of any fully constructed public street right of way.
 - 2. Shall not be located in the path of any planned street or trail as illustrated on the city's master street plan.
- E. Maximum Size: The maximum aboveground size of a public utility substation shall be as follows:
 - 1. If not located within the park strip of a fully improved street, nine feet (9') in any direction horizontally and six and one-half feet (6.5') vertically above the existing grade.
 - 2. If located within the park strip of a fully improved street, five feet (5') horizontally parallel to the street by two feet (2') perpendicular to the street and fifty six inches (56") vertically above existing grade.
- F. Visual Obstructions: A public utility substation shall conform to visual obstruction regulations set forth in subsection [10-22-10E](#) of this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-26-5: CONDITIONAL USE PERMIT REQUIRED

A public utility substation that does not conform to the development standards of section [10-26-4](#) of this chapter may be established in any zone subject to the issuance of a conditional use permit pursuant to the requirements of section [10-5-14](#) of this title and the development standards of section [10-26-6](#) of this chapter.

Adopted by Ord. 2007-02 on 7/11/2007

10-26-6: DEVELOPMENT STANDARDS; CONDITIONAL USE

The development standards of section [10-26-4](#) of this chapter shall apply to any public utility substation established as a conditional use except as modified by the following subsections:

- A. Location: A public utility substation which exceeds the size limits of subsection [10-26-4E](#) of this chapter shall not be located in any park strip or front yard.
- B. Maximum Size: A public utility substation located in a residential zone shall not exceed twelve feet (12') horizontally and ten feet (10') vertically above existing grade.
- C. Maximum Height: A public utility substation which exceeds the height limitations of subsection [10-26-4E](#) of this chapter may be permitted subject to the issuance of a conditional use permit.

Adopted by Ord. 2007-02 on 7/11/2007

Chapter 27: RESIDENTIAL FACILITIES FOR ELDERLY PERSONS AND PERSONS WITH A DISABILITY

10-27-1: PURPOSE

10-27-2: SCOPE

10-27-3: PERMITTED USES

10-27-4: RESIDENTIAL FACILITIES FOR ELDERLY PERSONS

10-27-5: RESIDENTIAL FACILITIES FOR PERSONS WITH A DISABILITY

10-27-6: REASONABLE ACCOMMODATION

10-27-7: STANDARDS FOR PROTECTIVE HOUSING, REHABILITATION/TREATMENT FACILITIES, TRANSITIONAL HOUSING, AND ASSISTED LIVING FACILITIES

10-27-8: NONRESIDENTIAL TREATMENT FACILITIES

10-27-1: PURPOSE

The purpose of this chapter is to comply with sections 10-9a-516 through 10-9a-520 of the Utah code, as amended, and to avoid discrimination in housing against persons with disabilities pursuant to the Utah fair housing act and the federal fair housing act as interpreted by courts whose decisions are binding in Utah.

Adopted by Ord. 2007-02 on 7/11/2007

10-27-2: SCOPE

If any facility, residence, congregate living or other housing arrangement meets the definition of a "residential facility for elderly persons" or a "residential facility for persons with a disability" as set forth in this title, the requirements of this chapter shall govern the same notwithstanding any conflicting provision of this title or this code. Except as provided herein, the requirements of this chapter shall not be construed to prohibit or limit other applicable provisions of this title, this code or other laws.

Adopted by Ord. 2007-02 on 7/11/2007

10-27-3: PERMITTED USES

- A. Permitted Uses: Notwithstanding any contrary provision of this title, a residential facility for elderly persons or for persons with a disability shall be permitted uses in any zone where a dwelling is allowed as a permitted or conditional use subject to the development standards in section [10-27-4](#) or [10-27-5](#) of this chapter, as the case may be.
- B. Termination: A use permitted by this chapter is nontransferable and shall terminate if:
 - 1. The facility is devoted to a use other than a residential facility for elderly persons or a residential facility for persons with a disability, or
 - 2. Any license or certification issued by the Utah department of health or the department of human services for such facility terminates or is revoked, or
 - 3. The facility fails to comply with requirements set forth in this chapter.

Adopted by Ord. 2007-02 on 7/11/2007

10-27-4: RESIDENTIAL FACILITIES FOR ELDERLY PERSONS

- A. Development Standards: Residential facilities for elderly persons shall comply with all requirements of sections 10-9a-516 through 10-9a-519 of the Utah code, and also the following requirements:
 - 1. The facility shall meet all applicable building codes, safety codes, zoning regulations, the Americans with disabilities act, and health ordinances applicable to single-family or similar dwellings; except as may be modified by the provisions of this chapter.
 - 2. Minimum site development standards shall be the same as those for a dwelling unit in the zone in which the facility is located.
 - 3. Each facility shall be capable of being used as a residential facility for elderly persons without structural or landscaping alterations that would change the residential character of the structure.
- B. Prohibited Occupancy: No facility shall be made available to an individual who has demonstrated, by prior behavior, actions and/or criminal convictions, or as a resident, that he or she:
 - 1. May be determined to be or does constitute a substantial risk or direct threat to the health or safety of other individuals; or
 - 2. Has or may engage in conduct resulting in substantial physical damage to the property of others.
- C. Transferability: The use granted and permitted by this section is nontransferable and terminates if the structure is devoted to any use other than as a residential facility for the elderly or if the structure fails to comply with the applicable health, safety, zoning and building codes.
- D. Separation: No residential facility for elderly persons which has more than five (5) elderly persons in residence shall be established or maintained within three-fourths (0.75) mile from a residential facility for elderly persons, residential facility for persons with disabilities, protective housing facility, transitional housing facility, assisted living facility, rehabilitation/treatment facility, or nonresidential treatment facility. Such distance shall be measured in a straight line from nearest property line of the existing facility to nearest property line of the proposed facility.

Adopted by Ord. 2007-02 on 7/11/2007

10-27-5: RESIDENTIAL FACILITIES FOR PERSONS WITH A DISABILITY

- A. Development Standards: A residential facility for persons with a disability shall conform to the following requirements:
 - 1. The facility shall comply with applicable building, safety and health regulations, the Americans with disabilities act, fire regulations, and all applicable state standards and licensing requirements, and any standards set forth in a contract with a state agency.
 - 2. The facility shall comply with provisions of this title applicable to single-family dwellings for the zone in which it is located, except as may be modified by the provisions of this chapter.
 - 3. The minimum number of parking spaces required shall be the same as the number required for a dwelling with similar occupancy density in the same zone.
- B. Permitted Occupancy: Residential facilities for persons with disabilities shall be permitted only in agricultural or residential zones. The maximum number of occupants in a residential facility for persons with a disability shall be as follows:
 - 1. In an agricultural or residential zone, not more than six (6) residents, not including staff or a family that owns and resides therein.
 - 2. In a commercial zone, not more than twelve (12) residents, not including staff or a family that owns and resides therein.
- C. Prohibited Occupancy: No facility shall be made available to an individual who has demonstrated, by prior behavior, actions and/or criminal convictions, or as a resident, that he or she:
 - 1. May be determined to be or does constitute a substantial risk or direct threat to the health or safety of other individuals; or
 - 2. Has or may engage in conduct resulting in substantial physical damage to the property of others.
- D. State License: Prior to occupancy of the facility, the person or entity licensed or certified by the Utah department of human services or the department of health to establish and operate the facility shall:
 - 1. Provide a certified copy of such license to the city recorder.
 - 2. Certify, in a sworn affidavit submitted with the application for a business license, compliance with the Americans with disabilities act.
 - 3. Certify, in a sworn affidavit submitted with the application for a business license, that no person:
 - a. Will be placed or remain in the facility whose prior or current behavior, actions and/or criminal incidents or convictions,
 - b. Has demonstrated that such person is or may be a substantial risk or direct threat to the health or safety of other individuals, or
 - c. Whose behavior, actions and/or incidents or convictions has resulted in or may result in substantial physical damage to the property of others.
 - 4. The affidavits required by subsections D2 and D3 of this section shall be supplemented and updated not less than one hundred fifty (150) days nor more than one hundred ninety (190) days from the date of issuance of a business license and at the time of the application for renewal of the business license.
- E. Transferability: The use permitted by this section is nontransferable and shall terminate if:
 - 1. A facility is devoted to or used as other than a residential facility for persons with a disability; or
 - 2. The license or certification issued by the Utah department of human services, department of health, or any other applicable agency, terminates or is revoked; or
 - 3. The facility fails to comply with the conditions set forth in this section.
- F. Security: Residential facilities for persons with disabilities that are substance abuse facilities and are located within five hundred feet (500') of a school, shall provide, in accordance with rules established by the Utah department of human services under title 62A, chapter 2, licensure of

program and facilities of the Utah code:

1. A security plan satisfactory to local law enforcement authorities.
 2. Twenty four (24) hour supervision for residents.
 3. Other twenty four (24) hour security measures.
- G. Separation: No residential facility for a person with a disability which has more than five (5) persons in residence shall be established or maintained within three-fourths (0.75) mile from a residential facility for elderly persons, residential facility for persons with disabilities, protective housing facility, transitional housing facility, assisted living facility, rehabilitation/treatment facility, or nonresidential treatment facility. Such distance shall be measured in a straight line from nearest property line of the existing facility to nearest property line of the proposed facility.

Adopted by Ord. 2007-02 on 7/11/2007

10-27-6: REASONABLE ACCOMMODATION

None of the provisions of this chapter shall be interpreted to limit a reasonable accommodation necessary to allow the establishment or occupancy of a residential facility for persons with a disability.

- A. Application: Any person or entity who wishes to request a reasonable accommodation shall make a written application to the planning commission. Each application shall state the following:
1. The name, mailing address, and phone number of the applicant.
 2. The nature and extent of the applicant's disability.
 3. An exact statement of the ordinance or policy from which the applicant needs a reasonable accommodation.
 4. The applicant's proposed reasonable accommodations.
 5. A statement detailing why a reasonable accommodation is necessary.
 6. The physical address of the property where the applicant intends on living.
- B. Decision: The planning commission shall render a decision on each application for a reasonable accommodation within forty five (45) days. The decision shall be based on evidence of record demonstrating:
1. The requested accommodation will not undermine or fundamentally alter the legitimate purposes of existing zoning regulations notwithstanding the benefit that the accommodation would provide to a person with a disability.
 2. That, but for the accommodation, one or more persons with a disability likely will be denied an equal opportunity to enjoy housing of their choice.
 3. That equal results will be achieved as between the person with a disability requesting the accommodation and a nondisabled person.
- C. Appeal: If a reasonable accommodation request is denied, the decision may be appealed to the board of appeals in the manner provided for appeals of administrative decisions set forth in this title.
- D. Denial On Appeal: If a request for a reasonable accommodation is denied on appeal, such decision may be appealed to the city council.

Adopted by Ord. 2007-02 on 7/11/2007

10-27-7: STANDARDS FOR PROTECTIVE HOUSING, REHABILITATION/TREATMENT FACILITIES, TRANSITIONAL HOUSING, AND ASSISTED LIVING FACILITIES

- A. Development Standards: Any newly constructed or remodeled protective housing facility, rehabilitation/treatment facility, transitional housing facility, and assisted living facility located in a residential zone, or on property immediately abutting a residential zone, shall comply with the following design standards:
1. Setbacks shall be according to the requirements of the residential zone in which the facility is located, or if the facility is in a commercial zone abutting a residential zone the setbacks shall be those of the abutting residential zone.
 2. Parking areas shall be located either in the rear yard area of the lot or behind the main building or garage.
 3. In addition to the maximum height restrictions of the applicable zone, a new building or an additional building shall not exceed one hundred ten percent (110%) of the average height of the closest dwellings located on property adjacent to a proposed structure.
 4. In order for new construction to reflect the design and character of the existing neighborhood, the following standards shall be met:
 - a. The roof design of the structure shall be a pitched roof of the same slope as the most common roof slope of the dwelling units located on the same side of the block where the building is proposed.
 - b. Exterior materials shall consist of brick, siding, or stucco. Such materials shall be applied in such a manner that is consistent with the predominant use of such materials in the area where the building is located.
- B. Prohibited Occupancy: No facility shall be made available to an individual who has demonstrated, by prior behavior, actions and/or criminal convictions, or as a resident, that he or she:
1. May be determined to be or does constitute a substantial risk or direct threat to the health or safety of other individuals; or
 2. Has or may engage in conduct resulting in substantial physical damage to the property of others.
- C. Similar Requirements: To the extent substantially similar requirements included in this section are also included in a zone where a facility referred to herein may be located, the more restrictive provisions shall apply.

Adopted by Ord. 2007-02 on 7/11/2007

10-27-8: NONRESIDENTIAL TREATMENT FACILITIES

A nonresidential treatment facility shall be allowed only if the facility is a permitted or conditional use in the zone where the facility is located. In addition to the requirements of such zone, each such facility shall conform to the requirements of this section.

- A. Applicable Regulations: The facility shall comply with building, safety, zoning, and health regulations, the Americans with disabilities act, fire regulations, and applicable state standards and licensing requirements, and any standards set forth in any contract with a state agency.
- B. Development Standards: The following site development standards and parking standards shall be applicable:
1. Each facility shall be subject to the minimum site development standards applicable to a business in the zone where the facility may be located.
 2. The minimum number of parking spaces required shall be the same as the number required for a commercial building with similar size, occupancy, and density in the same zone.

- C. State License: Prior to occupancy of the facility, the person or entity licensed or certified by the Utah department of human services or the department of health to establish and operate the facility shall:
1. Provide a certified copy of such license with the city recorder.
 2. Certify, in a sworn affidavit submitted with application for a business license, compliance with the Americans with disabilities act.
- D. Transferability: The use permitted by this section is nontransferable and shall terminate if:
1. A facility is devoted to or used as other than a nonresidential facility, or
 2. The license or certification issued by the Utah department of human services, department of health, or any other applicable agency, terminates or is revoked, or the facility fails to comply with the conditions set forth in this section.
- E. Separation: No nonresidential treatment facility shall be established or maintained within one thousand feet (1,000'), measured in a straight line from nearest property line of the existing facility to nearest property line of the proposed facility, from any:
1. Residential facility for persons with a disability;
 2. Residential facility for elderly persons with more than five (5) elderly persons in a residence; or
 3. Any of the following facilities: protective housing facility, transitional housing facility, assisted living facility, rehabilitation/treatment facility, a nonresidential treatment facility, or an elementary school.
- F. Prohibited Occupancy: No facility shall be made available to an individual who has demonstrated, by prior behavior, actions and/or criminal convictions, or as a resident, that he or she:
1. May be determined to be or does constitute a substantial risk or direct threat to the health or safety of other individuals; or
 2. Has or may engage in conduct resulting in substantial physical damage to the property of others.
- G. More Restrictive Provisions Apply: To the extent substantially similar requirements included in this section are also included in a zone where a facility referred to herein may be located, the more restrictive provisions shall apply.

Adopted by Ord. 2007-02 on 7/11/2007

Chapter 28: RESERVED (Ord 2007-02, 7-11-2007, Eff 7-11-2007)

Chapter 29: TEMPORARY USES

10-29-1: PURPOSE

10-29-2: SCOPE

10-29-3: TEMPORARY USES ALLOWED; PERMIT

10-29-4: DEVELOPMENT STANDARDS: GENERAL PROVISIONS

10-29-5: DEVELOPMENT STANDARDS: LARGE EVENTS

10-29-1: PURPOSE

The purpose of this chapter is to allow, subject to the provisions herein, certain temporary land uses which are not permitted or conditional uses in the zone where the temporary use is proposed. The character of such uses requires proper conditions to protect the owners, occupants, and users of adjacent property.

Adopted by Ord. 2007-02 on 7/11/2007

10-29-2: SCOPE

The provisions of this chapter shall apply to the temporary uses enumerated herein. Any building or structure not conforming to the requirements of this chapter shall be deemed a permanent use and shall be allowed only if such use is a permitted or conditional use in the zone where the use is located. The requirements of this chapter shall not be construed to prohibit or limit other applicable provisions of this title, this code, and other laws. This chapter shall not apply to activities lawfully conducted by a government agency.

Adopted by Ord. 2007-02 on 7/11/2007

10-29-3: TEMPORARY USES ALLOWED; PERMIT

- A. Uses Allowed: Any person may sponsor or conduct for profit or nonprofit purposes the temporary uses set forth below subject to the issuance of a temporary use permit, unless under express provisions of this chapter no such permit is required.
- Auction.
 - Christmas tree sales.
 - Farmers' market.
 - Festival, show, exhibit, circus, carnival, outdoor dance, community fair, concert, or other activity of a similar nature.
 - Fireworks stand.
 - Garage/yard sale.
 - Motorized vehicle sales by a licensed dealer.
 - Produce stand.
 - Temporary construction office or model home.
- B. Temporary Use Permit Required: Unless exempt under the provisions of subsection C of this section, no person shall install or conduct any temporary use without obtaining a temporary use permit issued pursuant to the requirements of section [10-5-16](#) of this title and the development standards of this chapter.
- C. Exemption: No temporary use permit shall be required for the first or second garage/yard sale conducted on a lot or parcel during a calendar year.

Adopted by Ord. 2007-02 on 7/11/2007

10-29-4: DEVELOPMENT STANDARDS: GENERAL PROVISIONS

The development standards set forth in this section shall apply to any temporary use.

- A. Owner Approval: The owner of the property where a temporary use is proposed shall provide a written statement authorizing the use.
- B. Access: Specific areas shall be designated for ingress and egress of vehicular traffic and for patron admission, ensuring the safety of patrons, the exclusion of persons not entitled to entry, and the enforcement of state and local laws and ordinances. The adequacy of such areas shall be based

- upon the number of patrons reasonably expected to attend the temporary use.
- C. Insurance: When deemed necessary by the city council for one or more of the types of temporary uses set forth in section [10-29-3](#) of this chapter, a temporary use permit applicant shall provide liability insurance for benefit of the city. Such insurance shall:
1. Name the city as an insured.
 2. Hold the city harmless from any claim arising from personal injury or property damage resulting from the temporary use.
 3. Provide that the insurance shall not be canceled prior to giving the city at least ten (10) days' written notice of such cancellation.
- D. Parking: Off street parking shall be made available for the temporary use.
- E. Time Limits: The duration of a temporary use permit shall be as follows:
1. Auctions; garage/yard sales: Three (3) days (not more than 4 per year).
 2. Temporary retail sales: Ten (10) days (not more than 4 per year on a given lot or parcel).
 3. Fireworks stand: The same number of days per year as authorized by the Utah code.
 4. Christmas tree sales; motorized vehicle sales by a licensed dealer: Sixty (60) days per year.
 5. Produce stand; farmers' market: Ninety (90) days per year.
 6. Temporary construction or model home office: For the duration of construction activity so long as construction is diligently pursued and the offices are located on the property under construction or development.
 7. Festival, show, exhibit, circus, carnival, outdoor dance, community fair, concert, or other enterprise of a similar nature: For the time period within which the use is operated.
- F. Trash Removal: Within seven (7) days after a temporary use has been concluded all trash shall be removed and the temporary use site restored to its prior condition.
- G. Inspections: Authorized law enforcement officers, zoning enforcement officers, fire control officers, and other governmental personnel shall be permitted free access to a temporary use site to make inspections to ensure compliance with the provisions of this chapter.

Adopted by Ord. 2007-02 on 7/11/2007

10-29-5: DEVELOPMENT STANDARDS; LARGE EVENTS

Temporary uses for large events (where more than 50 persons are expected to participate at one time) shall conform to the development standards set forth in section [10-29-4](#) of this chapter and additionally to the following:

- A. Access: Specific areas shall be designated for ingress and egress of emergency vehicles, including appropriate barriers to regulate vehicular and pedestrian traffic.
- B. Control Plan: A plan shall be approved establishing adequate provisions for traffic control, crowd control, patron control, and enforcement of city ordinances, state and federal laws and any other applicable regulations, including, but not limited to, fire, health, and security laws.
- C. Emergency Services: Adequate first aid supplies and equipment, and emergency medical services shall be made available based on the duration of the temporary use and on the number of persons reasonably expected to participate.
- D. Parking: Temporary off street parking shall be provided at the rate of one vehicle for every four (4) persons reasonably expected to attend the event, activity, or proposed use. Such parking need not be hard surfaced.
- E. Sanitation Facilities: Adequate sanitation facilities, as reasonably determined by the Bear River health department, shall be provided based on the duration of the temporary use and on the number of persons reasonably expected to participate.
- F. Security: A security plan shall be approved establishing the number and type of enforcement and security personnel that will be present at the temporary use to monitor and facilitate the use and provide spectator or participant control and direction.

Adopted by Ord. 2007-02 on 7/11/2007

Chapter 30: WIRELESS TELECOMMUNICATION FACILITIES

- [10-30-1: PURPOSE AND INTERPRETATION](#)
- [10-30-2: POLICY STATEMENT; NEW AND EXISTING USES](#)
- [10-30-3: INDUSTRY SITE SELECTION CRITERIA](#)
- [10-30-4: CITY SITE SELECTION CRITERIA](#)
- [10-30-5: LOCATION PRIORITY](#)
- [10-30-6: COLLOCATION; USE OF PUBLIC PROPERTY](#)
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- [10-30-11: NONUSE; ABANDONMENT](#)
- [10-30-12: APPLICATION REQUIREMENTS](#)
- [10-30-13: THIRD PARTY REVIEW](#)

10-30-1: PURPOSE AND INTERPRETATION

- A. Purpose: The purpose of this chapter is to provide specific regulations for the placement, construction and modification of personal wireless telecommunications facilities. The provisions of this chapter are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting the provision of personal wireless services, nor shall the provisions of this chapter be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services. To the extent that any provision or provisions of this chapter are inconsistent or in conflict with any other provision of this code or any ordinance of the city, the provisions of this chapter shall control.
- B. Planning Commission Action: In the course of reviewing any request for any approval required under this chapter made by an applicant to provide personal wireless service or to install personal wireless service facilities, the planning commission shall act within a reasonable period of time after the request is duly filed with the city, taking into account the nature and scope of the request, and any decision to deny such a request shall be in writing and supported by substantial evidence contained in a written record.
- C. Petition For Amendment: Should the application of this chapter have the effect of prohibiting a person or entity from providing personal wireless service to all or a portion of the city, such provider may petition the city for an amendment to this chapter. The city, upon receipt of such a petition, shall promptly undertake review of the petition pursuant to the standard procedure for amendment of this title in accordance with state law and city ordinances, and shall make a determination on the petition within a reasonable period of time, taking into account the nature and scope of the petition, and any decision to deny such petition shall be in writing and supported by substantial evidence contained in a written record.

Adopted by Ord. 2007-02 on 7/11/2007

10-30-2: POLICY STATEMENT; NEW AND EXISTING USES

- A. Purpose: The purpose of this chapter is to establish general guidelines for the siting of towers and antennas. The goals of this chapter are to: 1) encourage the location of towers on public property and in nonresidential areas and to minimize the total number of towers throughout the city; 2) strongly encourage the joint use of new and existing tower sites; 3) encourage users of towers and antennas to locate them to the extent possible, in areas where the adverse impact on the city is minimal; 4) encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas; and 5) enhance the ability of the providers of telecommunications services to provide such services throughout the city quickly, effectively and efficiently. Accordingly, the city council finds that the promulgation of this chapter is warranted and necessary to:
1. Manage the location of towers and antennas in the city and encourage the use of public property for the placement thereof.
 2. Protect residential areas and land uses from potential adverse impacts of towers, including support structure failure and falling ice.
 3. Minimize adverse visual impacts of towers through careful design, siting, landscape screening and innovative camouflaging techniques.
 4. Accommodate the growing need for towers.
 5. Promote and encourage shared use/collocation of existing and new towers as a primary option rather than construction of additional single use towers, and to reduce the number of such structures needed in the future.
 6. Consider the public health and safety of towers to the extent allowed by the telecommunications act of 1996.
 7. Avoid potential damage to adjacent properties from antenna support structure failure and falling ice, through engineering and proper siting of antenna support structure.
- B. Prior Existing And New Uses: A wireless telecommunication facility established before December 13, 2000, may be continued without regard to the provisions of this chapter; provided, however, that any new construction on such a facility shall comply with the requirements of this chapter. Any facility established on or after December 13, 2000, shall comply with the requirements of this chapter.

Adopted by Ord. 2007-02 on 7/11/2007

10-30-3: INDUSTRY SITE SELECTION CRITERIA

In siting a new antenna, the industry requires a location that is technically compatible with the established network. A general area is to be identified based upon engineering constraints and the desired area of service. Specific locations within that general area will be evaluated using the following criteria which are not listed in order of priority:

- A. Topography as it relates to line of sight transmissions for optimum efficiency in telephone service.
- B. Availability of road access.
- C. Availability of electric power.
- D. Availability of land based telephone lines or microwave link capability.
- E. Leasable lands, and landlords who want facilities to be located on their properties consistent with zoning regulations.
- F. Screening potential of existing vegetation, structures and topographic features.
- G. Zoning that will allow wireless telecommunication facilities.
- H. Compatibility with adjacent land uses.
- I. The least number of sites to cover the desired area.
- J. The greatest amount of coverage, consistent with physical requirements.
- K. Opportunities to mitigate possible visual impact.
- L. Availability of suitable existing structures for antenna mounting.

Adopted by Ord. 2007-02 on 7/11/2007

10-30-4: CITY SITE SELECTION CRITERIA

- A. Location, Height Requirements: A provider who proposes to construct a wireless telecommunications facility shall demonstrate, using a generally accepted industry methodology, that the facility must be located as proposed and that the height of the facility is the minimum height necessary to fulfill the facility's intended function within the provider's system.
- B. FCC Licensing: Applications for necessary permits will only be processed when the applicant demonstrates that it is either an FCC licensed telecommunications provider or has in place agreements with an FCC licensed telecommunications provider for use or lease of the support structure.
- C. Minimize Adverse Effects: Wireless telecommunication facilities should be located and designed to minimize any adverse effect they may have on residential property values. Sites should be placed in locations where the existing topography, vegetation, buildings or other structures provide the greatest amount of screening. Sites should be located on bare ground without visual mitigation only in industrial zones, based on the design standards articulated in this chapter.
- D. Minimum Lot Size: Location and design of sites in all zones should consider the impact of the site on the surrounding neighborhood and the visual impact within the zone district. In residential zones, the minimum lot size for commercial telecommunications facilities shall be three (3) acres.

Adopted by Ord. 2007-02 on 7/11/2007

10-30-5: LOCATION PRIORITY

- A. Order Of Priority: The following establishes the order of priority for locating new communications facilities:
1. Place antennas and towers on public property.
 2. Place antennas and towers in districts zoned industrial.
 3. Place antennas and towers in districts zoned general commercial which do not adjoin or adversely impact residential neighborhoods.
 4. Place antennas on appropriate existing structures, such as buildings, communication towers, water towers and smokestacks in other zoned districts.
 5. Place antennas and towers on other private nonresidential property.
 6. Place antennas and towers in:
 - a. Other residential districts only if locations for which a need has been demonstrated are not available on existing structures or in nonresidential districts; and
 - b. Only on or in existing churches, parks, schools, utility facilities or other public facilities.
- B. Residential Zoning District Location: An applicant for a new antenna support structure to be located in a residential zoning district shall demonstrate that a diligent effort has been made to locate the proposed communications facilities on a government structure, a private institutional structure or other appropriate existing structures within a nonresidential zoning district, and that due to valid considerations, including

physical constraints, and economic or technological feasibility, no appropriate location is available. The telecommunications company is required to demonstrate that it contacted the owners of tall structures within a one mile radius of the site proposed, asked for permission to install the antenna on those structures, and was denied for reasons other than economic ones. The information submitted by the applicant shall include a map of the area to be served by the tower, its relationship to other antenna sites in the applicant's network, and an evaluation of existing buildings taller than twenty feet (20'), communication towers and water tanks within one mile of the proposed tower.

- C. City Owned Land; Priority: Priority for the use of city owned land for antennas and towers will be given to the following entities in descending order:
1. City of Honeyville.
 2. Public safety agencies, including law enforcement, fire and ambulance services, which are not part of the city and private entities with a public safety agreement with the city.
 3. Other governmental agencies, for uses which are not related to public safety.
 4. Entities providing licensed commercial wireless telecommunication services, including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.
- D. Minimum Requirements: The placement of antennas or towers on city owned property shall comply with the following requirements:
1. The antennas or tower will not interfere with the purpose for which the city owned property is intended.
 2. The antennas or tower will have no adverse impact on surrounding private property.
 3. The applicant will obtain adequate liability insurance and commit to a lease agreement which includes equitable compensation for the use of public land and other necessary provisions and safeguards. The fees shall be established by the city council after considering comparable rates in other cities, potential expenses, risks to the city, and other appropriate factors.
 4. The applicant will submit a letter of credit, performance bond or other security acceptable to the city to cover the costs of antenna or tower removal.
 5. The antenna or tower will not interfere with other users who have a higher priority as discussed in subsection C of this section.
 6. Upon reasonable notice, the antenna or tower may be required to be removed at the user's expense.
 7. The applicant will reimburse the city for any costs which it incurs because of the presence of the applicant's antenna or tower.
 8. The user will obtain all necessary land use approvals.
 9. The applicant will cooperate with the city's objective to promote collocations and thus limit the number of separate antenna sites requested.
- E. Special Requirements: The use of certain city owned property, such as water tower sites and parks, for antennas or towers, brings with it special concerns due to the unique nature of these sites. The placement of antennas or towers on these special city owned sites shall be allowed only when the following additional requirements are met:
1. Water Tower Or Reservoir Sites: The placement of antennas or towers on water tower or reservoir sites shall be allowed only when the city is satisfied that the following requirements are met:
 - a. The applicant's access to the facility will not increase the risks of contamination to the city's water supply.
 - b. There is sufficient room on the structure and/or on the grounds to accommodate the applicant's facility.
 - c. The presence of the facility will not increase the water tower or reservoir maintenance cost to the city.
 - d. The presence of the facility will not be harmful to the health of workers maintaining the water tower or reservoir.
 2. Parks: In no case shall a tower be allowed in a designated conservation area unless the tower will be installed in an area which currently includes tower facilities. Antennas or towers shall be considered only in the following parks after the recommendation of the parks, recreation, and arts commission and approval of the city council:
 - a. Public parks of a sufficient scale and character that are adjacent to an existing commercial or industrial use.
 - b. Commercial recreation areas and major play fields.
 - c. Park maintenance facilities.
- F. Application Process: An applicant who wishes to locate an antenna or tower on city owned property shall submit to the planning commission a completed application and detailed plan that complies with the submittal requirements of this chapter, this title, the general plan and other regulations and ordinances of the city, along with other pertinent information requested by the city.
- G. Termination:
1. Conditions: The city council may terminate any lease if it determines that any one of the following conditions exist:
 - a. A potential user with a higher priority cannot find another adequate location and the potential use would be incompatible with the existing use.
 - b. A user's frequency broadcast unreasonably interferes with other users of higher priority, regardless of whether or not this interference was adequately predicted in the technical analysis.
 - c. A user violates any of the standards in this chapter or the conditions attached to the city's lease or other authorization.
 2. Notice: Before taking action, the city shall provide notice to the user of the intended termination and the reasons for it, and provide an opportunity for the user to address the city council regarding the proposed action. This procedure need not be followed in emergency situations.
- H. Reservation Of Right: Notwithstanding the above, the city council reserves the right to deny, for any reason, the use of any or all city owned property by any one or all applicants.

Adopted by Ord. 2007-02 on 7/11/2007

10-30-6: COLLOCATION; USE OF PUBLIC PROPERTY

To minimize adverse visual impacts associated with the proliferation of towers, collocation of antennas by more than one carrier on existing or new towers and location of such antennas on public property shall take precedence over the construction of new single use towers as follows:

- A. Proposed antennas may, and are encouraged to, collocate onto existing towers, provided such collocation is accomplished in a manner consistent with the policy, site criteria and landscape/screening provisions contained in this chapter, then such collocations are permitted by right and new or additional special use approval is not required, except that any other permit, license, lease or franchise requirements shall be satisfied.
- B. The conditional use requirement for an antenna may be waived in nonresidential zones if the applicant locates the antenna on an existing structure other than an existing tower and/or if the antenna is proposed to be located on suitable public property such as a water tower, government building or other public tower or pole. Suitability of public property shall be determined at the city's sole discretion. The applicant shall submit detailed plans to the planning commission for an administrative review to determine if the conditional use permit process and public hearing can be waived. No building permit will be issued until approval is granted through the administrative review.

- C. The city may deny the application to construct a new tower if the applicant has not made a good faith effort to mount the antenna on an existing structure and/or public property.
- D. In order to reduce the number of antenna support structures needed in the city in the future, any new proposed support structure shall be designed to accommodate antennas for more than one user, unless the applicant demonstrates why such design is not feasible for economic, technical or physical reasons.
- E. Unless collocation has been demonstrated to be infeasible, the site plan shall delineate an area near the base of the tower to be used for the placement of additional equipment buildings for other users. The site plan for towers in excess of one hundred feet (100') shall propose space for two (2) comparable tower users while the site plan for towers under one hundred feet (100') shall propose space for one comparable tower user. To provide further incentive for collocation as a primary option, an existing tower may be modified or reconstructed to accommodate the collocation of an additional antenna, provided the additional antenna shall be of the same type as that on the existing tower. This is permitted by right for existing towers in all zones, subject to the following:
 - 1. Height: An existing tower may be modified or rebuilt to a taller height, not to exceed twenty feet (20') over the tower's existing height, to accommodate the collocation of an additional antenna. The height change may occur only once per tower.
 - 2. On Site Location: A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved on site within fifty feet (50') of its existing location so long as it remains within the same zone and complies with the other provisions of this chapter. After the tower is rebuilt to accommodate collocation, only one tower may remain on site.

Adopted by Ord. 2007-02 on 7/11/2007

10-30-7: DESIGN CRITERIA

- A. Joint Use: As provided above, new towers shall be designed to accommodate antennas for more than one user, unless the applicant demonstrates why such design is not feasible for economic, technical or physical reasons.
- B. Architecturally Compatible: Facilities should be architecturally compatible with the surrounding buildings and land uses in the zoning district or otherwise integrated, through location and design, to blend in with the existing characteristics of the site to the extent practical.
 - 1. Setback: Tower setbacks shall be measured from the base of the tower to the property line of the lot on which it is located. Unless there are unusual geographical limitations as determined in the city's sole discretion, in residential districts and residential land use areas, where permitted, towers shall be set back from all property lines a distance equal to three hundred percent (300%) of tower height as measured from ground level. Towers shall comply with the minimum setback requirements of the area in which they are located in all other zoning districts.
 - 2. Color: Towers shall have a color generally matching the surroundings or background that minimizes their visibility, unless a different color is required by the FCC or FAA.
 - 3. Lights, Signals And Signs: No signals, lights or signs shall be permitted on towers unless required by the FCC or the FAA. Should lighting be required, at the time of construction of the tower in cases where there are residential users located within a distance which is three hundred percent (300%) of the height of the tower from the tower, then dual mode lighting shall be requested from the FAA.
 - 4. Equipment Structures: Ground level equipment and buildings and the tower base shall be screened from public streets and residentially zoned properties. The standards for the equipment buildings are as follows:
 - a. The maximum floor area is three hundred (300) square feet and the maximum height is twelve feet (12').
 - b. Ground level buildings shall be screened from adjacent properties by landscape plantings, fencing or other appropriate means, as specified in this chapter or this title.
 - c. Equipment buildings mounted on a roof shall have a finish similar to the exterior building walls. Equipment for a roof mounted antenna may also be located within the building on which the antenna is mounted.
 - 5. Occupancy Of Roof Area: Equipment buildings, antennas, and related equipment shall occupy no more than twenty five percent (25%) of the total roof area of a building.
 - 6. Conditional Use Permit: Antennas or equipment buildings not meeting these standards require a conditional use permit. The use shall be approved on a comprehensive sketch plan or final development plan, as applicable.
- C. Federal Requirements: All towers shall meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this chapter shall bring such towers and antennas into compliance with such revised standards and regulations within three (3) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- D. Building Codes; Safety Standards: To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable city building codes and the applicable standards for towers that are published by the Electronic Industries Association (EIA), as amended from time to time. If, upon inspection, the city concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within said thirty (30) days, the city may remove such tower at the owner's expense.
- E. Structural Design: Towers shall be constructed to the EIA standards, which may be amended from time to time, and all applicable construction/building codes. Further, any improvements and/or additions to existing towers shall require submission of site plans sealed and verified by a professional engineer which demonstrate compliance with the EIA standards and all other good industry practices in effect at the time of said improvement or addition. Said plans shall be submitted and reviewed at the time building permits are requested.
- F. Fencing: A well constructed masonry or stone wall, in all zones except industrial zones, not less than eight feet (8') in height from finished grade shall be provided around each tower. Access to the tower shall be through a locked gate.
- G. Antenna Height: The applicant shall demonstrate that the antenna is the minimum height required to function satisfactorily. No antenna that is taller than this minimum height shall be approved.
- H. Antenna Support Structure Safety: The applicant shall demonstrate that the proposed antenna and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice or other debris or interference. All support structures shall be fitted with antilimbing devices, as approved by the manufacturers.
- I. Required Parking: If the tower site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, arrangements for adequate off street parking shall be made and documentation thereof provided to the city. Security fencing should be colored or should be of a design which blends into the character of the existing environment.
- J. Antenna Criteria: Antennas on or above a structure shall be subject to the following:
 - 1. The antenna shall be architecturally compatible with the building and wall on which it is mounted and designed and located so as to minimize any adverse aesthetic impact.
 - 2. The antenna shall be mounted on a wall of an existing building in a configuration as flush to the wall as technically possible and shall not project above the wall on which it is mounted unless for technical reasons the antenna needs to project above the roofline. In no event shall

- an antenna project more than ten feet (10') above the roofline.
3. The antenna shall be constructed, painted or fully screened to match as closely as possible the color and texture of the building and wall on which it is mounted.
 4. The antenna may be attached to an existing conforming mechanical equipment enclosure which projects above the roof of the building, but may not project any higher than the enclosure.
 5. If an accessory equipment shelter is present, it shall blend with the surrounding buildings in architectural character and color.
 6. The structure shall be architecturally and visually (color, size, bulk) compatible with surrounding existing buildings, structures, vegetation and/or uses or those likely to exist under the terms of the underlying zoning. Such facilities will be considered architecturally and visually compatible if they are camouflaged to disguise the facility.
 7. Site location and development shall preserve the preexisting character of the site as much as possible. Existing vegetation should be preserved or improved, and disturbance of the existing topography of the site should be minimized, unless such disturbance would result in less visual impact of the site on the surrounding area. The effectiveness of visual mitigation techniques shall be evaluated by the city, in the city's sole discretion, taking into consideration the site as built.
 8. On buildings thirty feet (30') or less in height, the antenna may be mounted on the roof if:
 - a. The city finds mounting the antenna on a wall is not technically possible or aesthetically desirable.
 - b. No portion of the antenna or base station causes the height of the building to exceed the limitations set forth herein.
 - c. The antenna or antennas and related base stations cover no more than an aggregate total of twenty five percent (25%) of the roof area of a building.
 - d. Roof mounted antenna and related base stations are completely screened from view by materials that are consistent and compatible with the design, color and materials of the building.
 - e. No portion of the antenna may exceed ten feet (10') above the height of the existing building. If a proposed antenna is located on a building or a lot subject to a site review, approval is required prior to the issuance of a building permit.
 9. No antenna shall be permitted on property designated as an individual landmark or as a part of a historic district, unless such antenna has been approved in accordance with this title.
 10. No antenna shall be permitted on property designated as an individual landmark or as a part of a historic district, unless such antenna has been approved in accordance with this title.
 11. No antenna owner or lessee or officer or employee thereof shall fail to cooperate in good faith to accommodate other competitors in their attempts to use the same building for other antennas. If a dispute arises about the feasibility of accommodating another competitor, the city council may require a third party technical study, at the expense of either or both parties, to resolve the dispute.
 12. No antenna owner or lessee shall fail to ensure that the antenna complies at all times with the then current applicable American National Standards Institute or FCC standards, whichever is more stringent. After installation, but prior to putting the antenna in service, each antenna owner shall provide a certification by an independent professional engineer to that effect.
 13. No antenna shall cause localized interference with the reception of any other communications signals, including, but not limited to, public safety signals, and television and radio broadcast signals.
 14. No person shall locate an antenna or tower upon any lot or parcel except as provided in this chapter.

Adopted by Ord. 2007-02 on 7/11/2007

10-30-8: OTHER PERMITTED USES

In industrial zones, antenna and associated unmanned equipment buildings are permitted as a matter of right subject to the requirements of this chapter and the following standards:

- A. Attachment: The antenna is attached to the roof or sides of a building at least thirty feet (30') in height, an existing tower, a water tank or a similar structure.
- B. Permitted Antennas: The following antennas are permitted under the provisions of this section:
 1. Omnidirectional or whip antennas no more than seven inches (7") in diameter and extending no more than ten feet (10') above the structure to which they are attached; or
 2. Panel antennas no more than two feet (2') wide and six feet (6') long, extending above the structure to which they are attached by no more than ten feet (10'); or
 3. Antennas, antenna arrays and support structures not on publicly owned property which shall not extend more than ten feet (10') above the highest point of the structure on which it is mounted. The antenna, antenna array and its support structure shall be mounted so as to blend with the structure to which the antenna is attached. The antenna and its support structure shall be designed to withstand a wind force of one hundred (100) miles per hour without the use of supporting guywires. The antenna, antenna array and its support structure shall be a color that blends with the structure on which they are mounted.
- C. Setback From Street: No such antenna, antenna array or its support structure shall be erected or maintained closer to any street than the minimum setback for the zone in which it is located.
- D. Guywires Restricted: No guy or other support wires shall be used in connection with such antenna, antenna array, or its support structure except when used to anchor the antenna, antenna array or support structure to an existing building to which such antenna, antenna array or support structure is attached.

Adopted by Ord. 2007-02 on 7/11/2007

10-30-9: INSPECTION REQUIREMENTS

Each year after a facility becomes operational, the facility operator shall conduct a safety inspection in accordance with the EIA and FCC standards and within sixty (60) days of the inspection, file a report with the city.

Adopted by Ord. 2007-02 on 7/11/2007

10-30-10: LANDSCAPING; SCREENING

- A. Landscaping: Landscaping, as described herein, shall be required to screen the support structure, the fence surrounding the support structure, and any other ground level features (such as a building). The city may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping. If the antenna is mounted flush on an existing building, and other equipment is housed inside an existing structure, landscaping shall not be required.
- B. Screening: The visual impacts of a tower shall be mitigated through landscaping or other screening materials at the base of the tower and ancillary structures. The following landscaping and buffering of towers shall be required around the perimeter of the tower and accessory structures, except that the standards may be waived by the city for those sides of the proposed tower that are located adjacent to undevelopable lands and lands not

in public view. Landscaping shall be installed on the outside of fences. Further, existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or in supplement towards meeting landscaping requirements.

1. A row of evergreen trees a minimum of ten feet (10') tall at planting, a maximum of six feet (6') apart shall be planted around the perimeter of the fence;
2. A continuous hedge at least thirty six inches (36") high at planting capable of growing to at least forty eight inches (48") in height within eighteen (18) months shall be planted in front of the tree line referenced above.

Adopted by Ord. 2007-02 on 7/11/2007

10-30-11: NONUSE; ABANDONMENT

- A. Abandonment: In the event the use of a tower is discontinued for a period of sixty (60) consecutive days, the tower shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the city which shall have the right to request documentation and/or affidavits from the tower owner/operator regarding the issue of tower usage. Upon such abandonment, the owner/operator of the tower shall have an additional sixty (60) days within which to:
1. Reactivate the use of the tower or transfer the tower to another owner/operator who makes actual use of the tower; or
 2. Dismantle and remove the tower. If such tower is not removed within said sixty (60) days, the city may remove such tower at the owner's expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.
- B. Expiration Of Approval: At the earlier of sixty (60) days from the date of abandonment without reactivation or upon completion of dismantling and removal, city approval for the tower shall automatically expire.

Adopted by Ord. 2007-02 on 7/11/2007

10-30-12: APPLICATION REQUIREMENTS

Application submission for conditional use, variance and building permit requests may utilize any combination of site plans, surveys, maps, technical reports, or written narratives necessary to convey the following information:

- A. A scaled site plan clearly indicating the location, type and height of the proposed tower, on site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower, and any other proposed structures.
- B. A current map and aerial as provided by the county assessor's office showing the location of the proposed tower.
- C. Legal description of the parcel, if applicable.
- D. If not within the separation distance from residential areas, approximate distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties. If within the separation distance requirements, then exact distances, locations and identifications of said properties shall be shown on an updated city map.
- E. A landscape plan showing specific landscape materials.
- F. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
- G. A notarized letter signed by the applicant stating the tower will comply with all EIA standards and all applicable federal and state laws and regulations, and this code, including specifically FAA regulations.
- H. A statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
 - I. Certification that the antenna usage will not interfere with other adjacent or neighboring transmission or reception functions.
 - J. The telecommunications company shall demonstrate that it is licensed by the FCC.
 - K. The applicant, if not the telecommunications service provider, shall submit proof of lease agreements with an FCC licensed telecommunications provider.
 - L. A full site plan shall be required for all facility sites, showing the antenna, antenna support structure, building, fencing, buffering, access and all other items required in this chapter. The site plan shall not be required if the antenna is to be mounted on an existing structure.
- M. At the time of site selection, the applicant should demonstrate how the proposed site fits into its overall network within the city.

Adopted by Ord. 2007-02 on 7/11/2007

10-30-13: THIRD PARTY REVIEW

The personal wireless service providers use various methodologies and analysis tools, including geographically based computer software, to determine the specific technical parameters of personal wireless services and low power mobile radio service facilities, such as: a) expected coverage area; b) antenna configuration; c) topographic constraints that affect signal paths, etc. In certain instances there may be a need for expert review by a third party of the technical data submitted by the personal wireless services or low power mobile radio service provider. The city council or the zoning administrator may require such a technical review, to be paid for by the applicant for the personal wireless services or low power mobile radio service facilities. The selection of the third party expert may be by mutual agreement between the applicant and city or at the discretion of the city, with a provision for the applicant and interested parties to comment on the proposed expert and review its qualifications. The expert review is intended to be a site specific review of technical aspects of the personal wireless services or low power mobile radio service facilities and not a subjective review of the site selection. Such a review should address the accuracy and completeness of the technical data, whether the analysis techniques and methodologies are legitimate, the validity of the conclusions and any specific technical issues outlined by the city council, zoning administrator, city staff or interested parties. Based on the results of the third party review, the city may require changes to the application for the personal wireless services or low power mobile radio service facilities that comply with the recommendations of the expert. The expert review of the technical submission shall address the following:

- A. The accuracy and completeness of submissions.
- B. The applicability of analysis techniques and methodologies.
- C. The validity of conclusions reached.
- D. Any specific technical issues designated by the city.

Adopted by Ord. 2007-02 on 7/11/2007

Chapter 31: SUBDIVISION CONSTRUCTION AND DRAWING STANDARDS

10-31-1: GENERAL PROVISIONS

10-31-2: DESIGN STANDARDS

10-31-3: DRAWING STANDARDS

10-31-1: GENERAL PROVISIONS

- A. Intent: It is the intent of these construction standards to describe the minimum acceptable requirements necessary to complete the improvements required by the city. Any work or improvements that may be reasonably inferred from these standards, as being required to produce the intended result, shall be supplied whether or not it is specifically called for. Work, materials or equipment described in words which so applied have a well known technical or trade meaning shall be deemed to refer to such recognized standards. Details and specifications for public works construction shall conform to the latest version of the American Public Works Association manual of standard specifications (published by the T2 Center at Utah State University and further referenced throughout this chapter as APWA specifications) and the Honeyville City public works construction standards.
- B. Contracts And Subcontracts:
1. Prior to construction, the developer will submit to the city and the city engineer for approval, a list of the names of all contractors and/or subcontractors the developer proposes to employ in constructing the improvements required herein.
 2. The developer will not employ any contractor or subcontractor (whether initially or as a substitute) against whom the city or the city engineer may have reasonable objection, nor will the developer be required to employ any contractor or subcontractor against whom he has reasonable objection.
 3. The developer will be fully responsible for all acts and omissions of his contractors and subcontractors and of persons directly or indirectly employed by him.
 4. Nothing in the contract documents shall create any contractual relationship between any contractor or subcontractor and the city or the city engineer, or any obligations on the part of the city or the city engineer, to pay or to see to the payment of any monies due any contractor or subcontractor, except as may otherwise be required by law.
 5. The developer shall agree to specifically bind every contractor and subcontractor to all of the applicable terms and conditions of the construction standards. Every contractor or subcontractor, by undertaking to perform any of the work, will thereby automatically be deemed to be bound by such terms and conditions.

Adopted by Ord. 2007-02 on 7/11/2007

10-31-2: DESIGN STANDARDS

A. Streets:

1. Arrangement:

- a. The arrangement of streets in new subdivisions shall make provision for the continuation of the 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 planning commission. The new street shall connect with existing public streets.
- b. The street arrangement should be such as to cause no unnecessary hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it. If the adjoining land is zoned for residential use, streets shall be located so that the adjacent land may be most efficiently subdivided. Half streets, consisting of half of a standard road right of way width or half of a fully developed street, on the boundary of a subdivision, are prohibited. Sharing of road development costs with abutting property owners and recovery of the same is provided for with a protection strip as described in section [10-22-15](#) of this title.

2. Conform To Master Street Plan: Streets shall conform to the master street plan.

3. Road Right Of Way Widths: Major and collector streets shall conform to the width designated on the master street plan wherever a subdivision is in an area for which a master street plan has been adopted. For territory where such street plan has not been completed at the time the subdivision preliminary plat is submitted to the planning commission, streets shall be provided as required by the planning commission, with minimum widths of sixty six feet (66') for collector streets and extensions of existing eighty foot (80') wide platted streets from original town site plats, and sixty feet (60') for minor streets. All streets serving permanent cul-de-sacs (permanent dead end streets) are considered to be minor streets and shall have the same width of that specified for a minor street.

4. Stub Streets: Stub streets shall be streets provided where needed to connect to adjacent undeveloped land to provide for reasonable access of the adjacent undeveloped land to a street transportation system and for future extension of streets to future development phases. Where a stub street exists at the boundary line of a new subdivision which was extended from adjacent land or development, a new street in a new subdivision or development adjacent to the existing stub street shall extend to connect to the existing stub street(s). Each stub street shall be provided with a temporary cul-de-sac turnaround unless the stub street extends only one lot depth on both sides of the lot, and, the lots on both sides are corner lots which have frontage on another street.

5. Cul-De-Sacs:

- a. Permanent: Permanent cul-de-sacs (dead end streets) not more than six hundred fifty feet (650') measured from centerline intercept of the nearest three-way "tee" or four-way "cross" intersection to the center point of the circular turnaround which does not serve more than ten (10) lots (including the corner lots fronting on the stem road to the cul-de-sac) may be used only where such conditions exist which make other road designs undesirable, infeasible, or impose an unusual hardship. Every effort shall first be made to configure a new road system to avoid cul-de-sacs prior to submitting a proposed road system design. Written explanation shall be submitted to the planning commission with supporting documentation to justify using a cul-de-sac in a street design. Each cul-de-sac shall be terminated by a circular turnaround right of way diameter of not less than one hundred ten feet (110') with a radius dimension from the cul-de-sac center point to the face of curb or pavement edge of not less than forty five feet (45'). If surface water drainage is towards the turnaround, necessary catch basins, drainage pipes, detention/retention basins, and drainage easements shall be provided to sufficiently drain or contain drainage entering the cul-de-sac turnaround to prevent undesirable ponding or flooding of private or public facilities which are not intended to receive drainage water.
- b. Temporary: A temporary cul-de-sac turnaround shall be used where a stub street is temporarily terminated and is not more than one lot deep on both sides of the street. The stub street shall be entirely paved with asphalt concrete mix to the temporary terminus at the full width in which it will be extended in the future. The circular turnaround shall be constructed with a surface of either asphalt concrete mix or crushed untreated base course gravel beyond one side or both sides of the stub street width to create an all weather maintainable turnaround area with a minimum driven surface radius of not less than forty five feet (45') and a temporary turnaround easement of not less than one hundred ten feet (110'). The easement and physical turnaround may either overlap onto adjacent lots on either side of the stub street or be provided beyond the stub street lots on property provided by the developer. Drainage of the stub street and temporary cul-de-sac turnaround shall conform to the same requirements for a permanent cul-de-sac.

6. Road Obstructions And Termination: In the event that any road or street in any subdivision shall terminate at or within fifty feet (50') of any ditch, canal, creek, waterway or other obstruction which will, in the opinion of the city engineer, require a bridge or other structure in order to continue the road over or across the canal, ditch, creek, waterway or other obstruction, the developer shall deposit with the city a sum of money equal to one-half ($\frac{1}{2}$) of the city engineer's estimate of the cost for constructing a proper and suitable bridge over the same. The city engineer shall, on request, furnish the developer a cost breakdown for any such structure. At such time, in the opinion of the city council, as it

becomes desirable to construct such structure, the same shall be constructed by the city applying such deposit toward the construction costs and charging the other one-half ($\frac{1}{2}$) of such cost to the person developing the other side, or if there is no person so developing the other side, the half shall be borne as a city expense.

7. Frontage On Major Highway: Where a residential subdivision abuts a major highway, frontage roads may be required by the Utah department of transportation (UDOT). All residential subdivisions fronting on a UDOT highway requires UDOT approval of driveway and access points and any street intersection with a UDOT highway.
8. Street Names: A street shall have the name and address grid designation of the street which exists along the same alignment. Each street with a name shall also be assigned a grid address assigned to the street in conformance with the predominant Box Elder County street address grid system. Each street sign shall list both the name and the grid address in a format which conforms with the sign details in the Honeyville City public works construction standards. A street name existing within the city or within a community which abuts Honeyville City shall not be duplicated.
9. Design Criteria:
 - a. No more than four (4) streets shall enter an intersection.
 - b. Streets shall intersect at ninety degrees (90°), except where otherwise approved by the planning commission. In no case shall the planning commission approve any street intersecting at less than eighty degrees (80°).
 - c. The centerlines of two (2) subordinate streets meeting a through street from opposite sides shall extend as a continuous line, or the centerlines shall be offset at least one hundred fifty feet (150').
10. Curvature And Alignment:
 - a. To ensure adequate sight distances, street roadway line connections shall be made by horizontal curves. The minimum centerline radius for minor streets shall be one hundred fifty feet (150') and of all other streets shall be three hundred feet (300'). On collector and major streets, a minimum tangent of one hundred feet (100') shall be required between a curve and street intersection, and a minimum tangent of one hundred feet (100') shall be required between reverse curves.
 - b. Vertical curves shall be used at all changes of grades exceeding one percent (1%) and shall be designed to provide minimum sight distances of two hundred feet (200') for minor streets and three hundred feet (300') for all other streets, except that vertical curves for major streets shall be as determined by the latest version of the AASHTO "Geometric Design Guidelines". The minimum acceptable horizontal length of crest and sag vertical curves from beginning to end of the vertical curve is two hundred feet (200') for collector roads, two hundred feet (200') for crest vertical curves on minor streets and one hundred feet (100') for sag vertical curves on minor streets.
11. Street Grades: All street grades shall be designed as follows:
 - a. Major and collector streets shall be limited to a maximum grade of eight percent (8%). Sustained grades shall be limited to five percent (5%).
 - b. Minor streets shall be limited to a maximum grade of ten percent (10%). Sustained grades shall be limited to seven percent (7%).
 - c. Cul-de-sacs with a negative grade progressing toward the turnaround shall be limited to a maximum grade of six percent (6%). The cul-de-sac shall terminate with a grade not to exceed three percent (3%) for the last one hundred feet (100') of traveled surface.
 - d. Street intersections shall have a vertical alignment such that the grade shall not exceed three percent (3%) for a minimum distance of fifty feet (50') each way from the centerline of the intersection.
 - e. Maximum grades shall be approved only when accompanied by changes to a lesser grade, and where length of that portion of that road at maximum grade is less than six hundred feet (600'). A sustained grade is defined as six hundred feet (600') or longer.
12. Shoulders And Pavement:
 - a. Four foot (4') shoulders shall be provided where curbs are waived. Design shall comply with city construction standards.
 - b. Pavements shall be designed in accordance with procedures promulgated by the Utah department of transportation and contained in part 8, "materials", of the UDOT manual of instruction, or in accordance with AASHTO pavement design methods. For major and collector streets, the subdivider's engineer shall consider current and future traffic loads for a twenty (20) year life span, incorporate data from a site specific geotechnical study, and submit thickness design calculations and supporting data for the individual pavement layers with the final plat submittal. For minor streets a site specific geotechnical study shall determine the California bearing ratio (CBR) value of the native underlying soils. If the CBR value is ten (10) or greater, the standard pavement design shall be three inches (3") of asphalt concrete mix (hot mix asphalt) over eight inches (8") of crushed untreated base course above native subgrade soils prepared in accordance with the project geotechnical report. If the CBR value is less than ten (10), the pavement layer thicknesses shall conform to the recommendations of the project geotechnical study and report. Asphalt pavement shall be sealed with type 3 slurry seal conforming with the APWA standard specifications no sooner than nine (9) months after completion of the asphalt pavement, unless otherwise directed by the city engineer.
13. Sidewalk, Curbs And Gutters:
 - a. Sidewalks, handicap ramps, curbs and gutters shall be provided on streets within zones a density of one-half ($\frac{1}{2}$) acre or less, unless specifically waived in writing by a majority vote of the Honeyville City council. In zones which are one-half ($\frac{1}{2}$) acre or less, sidewalks, handicap ramps, curbs and gutters are required on existing city streets bordering the new subdivision, unless specifically waived in writing by a majority vote of the city council. Where curb and gutter is placed on an existing city street, asphalt pavement shall be properly designed as set forth in subsection A12b of this section and widened to fill in between the existing edge of pavement and the lip of gutter.
 - b. All curb corners shall have a radius of not less than twenty five feet (25').
 - c. On curb returns, at least one additional control point for elevation besides those at points of curvature shall be established. Control points shall be staked in the field to ensure drainage of intersections.
 - d. Curbs and gutters on all urban streets shall be concrete of the standard high back type design, being thirty inches (30") wide from back of curb to lip of gutter and not less than six inches (6") thick where the curb abuts the street pavement. The top of the curb shall be approximately three and one-half inches ($3\frac{1}{2}$ ") higher in elevation than the lip of the gutter and shall provide handicapped access.

B. Easement Standards:

1. Front, rear and side lot line easements are required and shall be a minimum of ten feet (10') wide and shall be dedicated as utility easements unless the city engineer determines a particular easement is unnecessary. A ten foot (10') wide lot line utility easement is required on both sides of every other side lot line, unless the city engineer determines a particular easement is unnecessary.
2. All easements shall be designed so as to provide efficient installation of utilities or street planting. Special guying easements at corners may be required if any utilities are to be overhead. Public utility installation shall be located so as to permit multiple installations within the easements. The developer shall establish final utility grades prior to utility installation.
3. Whenever any stream or important surface drainage course is located in an area that is being subdivided, the developer shall dedicate an

adequate easement along each side of the stream for the purpose of widening, deepening, sloping, improving or protecting the stream for drainage, parkway or recreational use.

4. The planning commission shall, unless waived for good and sufficient cause, require that easements for drainage through a subdivision and adjoining property be provided by the developer.

C. Utilities To Be Underground:

1. Unless the planning commission and city council determine, upon application by the developer, supported by recommendation of the city engineer, that it is not feasible to do so, all power lines, telephone lines and other normally overhead utility lines, shall be placed underground by the developer.
2. The developer, by designating the location for easements for all utility lines and installations thereof, shall agree, as one of the conditions for the approval of any plan, that he will, at the developer's expense, remove any obstruction that, in the opinion of the city engineer, makes such location impracticable for use until the obstruction is removed or altered. If additional expense is required for underground installation of power or other utility, the developer shall agree to pay any additional expense occasioned thereby and sign an agreement with the city for the purpose of carrying out this requirement to completion.

D. Blocks:

1. Blocks shall not exceed one thousand three hundred feet (1,300') in length. Blocks over eight hundred feet (800') in length shall be provided with a dedicated walkway through the block at its approximate center. Such walkways shall be not less than ten feet (10') in width. The width of blocks generally shall be sufficient to allow two (2) tiers of lots. Blocks intended for business or industrial uses shall be designed specifically for such purposes with adequate space set aside for off street parking and delivery facilities.
2. Property lines at all street intersections shall be rounded with curves having a minimum radius of fifteen feet (15').

E. Lots:

1. The lot arrangement and design shall be such that lots will provide satisfactory and desirable sites for buildings and be properly related to topography and to existing and probable future requirements.
2. All lots shown on the subdivision plan shall conform to the minimum requirements of the zone in which the subdivision is located, and to the minimum requirements for sewage disposal.
3. Each lot shall abut on a street dedicated by the recording of a subdivision or on an existing publicly dedicated street, or on a street which has become public by right of use and is at least fifty feet (50') wide or on a private street approved by the planning commission and the city council.
4. Double frontage lots of one acre or less are prohibited unless approved by the planning commission for reasons of topography.
5. No wedge shaped lot shall be less than thirty feet (30') in width at the front property lines, or less than the lot frontage at the front setback line required in the zoning district, whichever is larger.
6. Side lot lines shall be at right angles or radial to street lines, except where justified by the developer and approved by the planning commission.
7. Corner lots shall have extra width sufficient for maintenance of required building lines on both streets.
8. All remnants of lots below minimum size left over after subdividing of a larger tract shall be added to adjacent lots, rather than allowed to remain as unusable parcels.
9. No single lot shall be divided by a city or county boundary line.
10. A lot shall not be divided by a road, alley or other lots.

F. Storm Drainage And Floodplains: Complete drainage systems for the entire subdivision area shall be designed by a professional engineer, licensed in the state and qualified to perform such work, and shall be shown graphically. All existing drainage features which are to be incorporated in the design shall be so identified. If the final plat is to be presented in phases, a general drainage plan for the entire area shall be provided with the preliminary plat, and appropriate development stages for the drainage system for each section indicated.

1. Design Of Drainage And Floodplain Systems: The drainage and floodplain systems shall be designed to:

- a. Permit the unimpeded flow of natural watercourses.
- b. Ensure adequate drainage of all low points.
- c. Ensure applications of the following regulations regarding development in designated floodplains.

2. Use Of Land: The use of land in floodplains shall be limited as follows:

- a. Construction of buildings shall not be permitted in a designated floodway with a return frequency of one hundred (100) years or more.
- b. Building construction may occur in that portion of the designated floodway where the return frequency is less than one hundred (100) years; provided, the main floor space is constructed above the designated maximum probable flood level and provisions are made in the design and construction of the buildings to prevent entry of floodwaters into the lower levels.
- c. Where floodway velocities are generally determined to be under five feet (5') per second and maximum flood depth will not exceed three feet (3'), such uses as cultivated agriculture, nurseries, parks and recreation facilities and accessory parking may be permitted.
- d. Any use of land is prohibited where flooding would create a public health hazard or problem. This includes shallow wells, uncased deep wells, sanitary landfills, septic tank and on-lot sewage disposal systems, water treatment plants, and sewage disposal systems not completely protected from inundation.
- e. Any contemplated floodplain encroachment or channeling shall be thoroughly analyzed and its effect on stream flow determined before such encroachment is undertaken. Any construction, dumping and filling operations in a designated floodplain constitutes an encroachment and shall be approved by the city engineer and the planning commission before any work is done.
- f. No lot one acre or less in area shall include floodplains. All lots more than one acre shall contain not less than twenty thousand (20,000) square feet of land which is at an elevation at least one foot (1') above the elevation of 100-year recurrence interval flood, or, where such data is not available, three feet (3') above the elevation of the maximum flood record.

3. Storm System Design: The design of the storm system shall consider the drainage system as a whole and shall include the following:

- a. Runoff from the subdivision area.
- b. Where applicable, the system shall be designed to accommodate runoff from those areas adjacent to and "upstream" from the subdivision.
- c. The effects of stormwater on land downstream.
- d. Limit peak runoff discharge from any new development area to two-tenths (0.2) cfs per acre. A detention pond with a discharge control structure shall be used to store stormwater runoff in excess of the peak permissible discharge.
- e. If no acceptable receiving drainage is available to discharge runoff from a development, runoff shall be intercepted and stored in a combination of retention basins and exfiltration sumps (seepage sumps) sized sufficiently to accommodate a 100-year 24-hour storm.
- f. Discharging detention ponds or other detaining facilities shall be provided with an adequate overflow device to discharge extraneous flow rates which exceed a 10-year 24-hour storm and cause the detaining facility to fill and overflow. Downstream receiving drainages

shall be capable of accommodating any overflow which leaves the detaining facility and documentation of such shall be provided with the final plat.

- g. Gutter capacities will be limited to that flow which will not create a hazard, damage or flood adjacent properties and which can be safely intercepted at the inlets.
- h. Stormwater inlets and catch basins shall be provided within the roadway improvements at points approved by the city engineer.
- i. No ditch or canal shall be approved as suitable for the disposal of storm drainage water without the written permission of the appropriate ditch or canal company or of the water users of said ditch or canal. No ditch or canal shall be used for stormwater disposal unless adequately improved to handle such water as might be reasonably expected to flow in the canal or ditch as irrigation water, the subdivision runoff water, and any other water expected to reach such canal or ditch. No ditch, canal or other waterway shall be permitted within property dedicated or to be dedicated for public use except as specifically approved by planning commission and city council. The developer shall remove such waterways from property to be dedicated before the submission of the final plat.
- j. Complete design calculations shall be submitted with the plans for the storm sewer system.

G. Sewage Disposal: Unless otherwise exempted by local or state health department requirements or prohibited by the local sewer district or owner of the public sewer system, if any subdivision lies within the boundaries of an established sewer district or within reasonable proximity to a public sewer system, the developer shall connect to said sewer system and provide, or have provided, a piped sanitary sewage system to the property line of every lot in the subdivision. The sewage system shall meet the minimum standards and requirements of the district sanitarian, the state division of environmental health and this title.

1. Sanitary Sewer Mains, Laterals And House Connections:

- a. All sewer mains shall be a minimum of eight inches (8") in diameter and shall be designed with adequate capacity for the current and future development.
- b. All sewer laterals and house connections shall be a minimum of four inches (4") in diameter.
- c. Where local, county and regional master plans indicate that construction or extension of sanitary sewers may serve the subdivision area within a reasonable time, the planning commission may require the installation and capping of sanitary sewer mains and house connections by the developer, in addition to the installation of temporary individual on site sanitary disposal systems.

2. On Site Sewage Disposal:

- a. Whenever individual septic tanks are proposed as sanitary sewage disposal systems, the developer shall either install such facilities or require, by deed restrictions or otherwise, as a condition of the sale of each lot or parcel within such subdivision that on-lot sanitary sewage disposal facilities be installed by the purchaser of said lot at the time the principal building permit shall be issued.
- b. Each subdivided lot to be served by an on site soil absorption sewage disposal system shall contain an adequate site for such system and shall meet minimum requirements of the Utah division of water quality for individual wastewater disposal systems and shall be approved in writing by the district sanitarian.

H. Culinary Water System: In general, each new development and subdivision shall connect to the Honeyville City culinary water system. Extensions or improvements of the existing culinary water system may be required of the developer to facilitate serving the new subdivision or development with culinary water. Private culinary water systems to serve a development or subdivision within the city limits may violate the city's culinary water ordinance and are generally prohibited. Where connection to the existing culinary water system is not feasible and the city council legally authorizes a private water system to serve a subdivision or development, the procurement of water, whether by purchase of water rights, water shares, exchange or service agreement, shall be the responsibility of the developer. Water and delivery of water shall be provided for the exclusive use of the subdivision or development in an amount sufficient to meet the following flow standards, unless it can be proved to the planning commission or city council, as the case may be, that a lesser service capacity is adequate.

1. Secondary Water System Not Available: Where a separate secondary water system is not available for each lot:

- a. A minimum of two hundred ninety two thousand (292,000) gallons per year per dwelling unit shall be required for the first ten thousand (10,000) square feet of lot area. Approximately two-thirds ($\frac{2}{3}$) of this water shall be available for use during the months of May through October. Each additional ten thousand (10,000) square feet of lot area shall require an additional two hundred twenty five thousand (225,000) gallons, which shall be available for use during the months of May through October.
- b. The distribution system shall be designed to deliver the above quantities of water at a minimum pressure of forty (40) psi. In no case shall the capacity of the system be less than one and six-tenths (1.6) gallons per minute per dwelling unit in addition to the water required for fire suppression.

2. Secondary Water System Available: Where a separate secondary water system is available at each lot:

- a. A minimum of one hundred forty six thousand (146,000) gallons per year per dwelling unit shall be required.
- b. The distribution system shall be designed to deliver the above quantity of water at a minimum pressure of forty (40) psi. In no case shall the capacity of the system be less than one and six-tenths (1.6) gallons per minute per dwelling unit in addition to the water required for fire suppression.

3. Design Calculations: When requested, complete design calculations shall be furnished to the city engineer.

I. Culinary Water System Requirements: Where connection to the existing city water system is feasible and required, the culinary water system for the subdivision shall meet the following requirements:

- 1. In general, culinary water system facilities shall comply with the city's public works construction standards and APWA specifications adopted by reference. Culinary water laterals shall extend to ten feet (10') inside the front property line of each lot with water meters placed in accordance with the city's public works construction standards. All culinary water main line pipes shall be eight inch (8") minimum and may be larger as determined necessary by the city engineer pursuant to applicable requirements of this title. The culinary water pipe system shall be capable of delivering water as required under subsections H1a and H1b of this section or by the Utah division of public drinking water, whichever is greater.
- 2. Fire hydrants shall be installed in accordance with the regulations of the fire department or the following requirements, whichever is most restrictive:
 - a. Be connected to a main line pipe of eight inches (8") in diameter or greater and where a fire hydrant lateral from the main line to the fire hydrant is six inches (6") in diameter.
 - b. Shall comply with the provisions of the latest revision of the applicable fire code.
 - c. Located such that any building lot will be not more than two hundred fifty feet (250') from the nearest fire hydrant when measured along the most probable access route. Another fire suppression system may be recommended. Such suppression system shall be approved by the fire chief, the planning commission and the city council.
 - d. Water line construction shall comply with the city's construction standards.

J. Secondary Water Systems:

1. When a pressurized secondary water system for irrigation is located within three hundred feet (300') of the subdivision boundary and secondary water rights are available to the property from said secondary water system to be subdivided, it shall be piped to the subdivision and made available for the full and beneficial use of each lot owner.
 2. All pressure irrigation systems in a proposed subdivision shall be identified and otherwise color coded as to pipe and valve color to meet state standards and regulations.
 3. The capacity of the pipe system shall be adequate to serve the demand of the subdivision.
 4. Plans and specifications for the system shall be approved in writing by the agency furnishing the water and the city engineer.
 5. Turn outs or valves shall be located on each lot.
 6. Where an existing irrigation system consisting of open ditches is located on or adjacent to a proposed subdivision, complete plans for relocation or covering and other safety precautions shall be submitted with an application for preliminary approval of a plat.
 7. The open ditches or canals shall not be allowed within or adjoining a subdivision, except when fenced along rear or side lot lines. The developer shall work with irrigation, drainage or ditch companies regarding:
 - a. Methods of covering, realigning or eliminating ditches or canals within or adjoining the subdivision.
 - b. The size of pipe and culverts required.
 - c. The responsibility for the periodic inspection, cleaning and maintenance 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 shall be approved by the city engineer.
- K. Safety Fences: The developer shall install a six foot (6'), nonclimbable chainlink fence, or its equivalent, along large open ditch, canal or waterway, nonaccess street, open reservoir or body of water, railroad right of way, and other such features of potentially hazardous nature which cross or are contiguous to the property being subdivided or developed; provided, however, that any feature which the approving authority reasonably determines is not likely to present a hazard to life may be exempted from this requirement.

Adopted by Ord. 2007-02 on 7/11/2007

10-31-3: DRAWING STANDARDS

- A. Purpose: The following instructions are for the purpose of standardizing the preparation of drawings to obtain uniformity in appearance, clarity, size and style.
- B. Number Submitted: The construction plans shall be submitted in triplicate (minimum) with two (2) approved sets to be retained by the city engineer and one approved set returned to the developer. This set shall be kept available at the construction site. Specifications shall accompany the plans where pertinent.
- C. Standards And Specifications Specified: The plans and designs shall meet the standards and specifications hereinafter outlined. The minimum information required on drawings for public works improvements are as follows:
 1. Plans And Profiles: Plans and profiles and all construction drawings shall be submitted in triplicate on twenty four inch by thirty six inch (24" x 36") drawings. Drawings shall have one and one-half inch (1½") border on the left and one-half inch (½") border on the three (3) remaining sides. All drawings shall be complete, clear and legible and shall conform to the accepted standards of the profession. Illegible or poorly drawn drawings shall be returned without action and will not be considered as having received a preliminary review. In general, the following should be included on drawings:
 - a. North arrow (plan).
 - b. Scale, bench mark datum and elevations, including the location of permanent bench marks and their true elevations according to USGS or the city's datum. All profiles and construction drawings shall be drawn using true elevation.
 - c. Complete data for field layout and office checking.
 - d. Stationing and elevations for profiles.
 - e. Title block, located in lower right corner of sheet to include:
 - (1) Name of county.
 - (2) Project title (subdivision, etc.).
 - (3) Specific type and location of work.
 - (4) Space for approval signature of city engineer and date.
 - (5) Name of engineer or firm preparing drawings with license number and sealed by the responsible engineer.
 - f. "As built drawings" shall be reproducible on Mylar and shall be furnished to the city engineer upon completion of the improvements. The city will retain the improvement guarantee until such plans have been furnished in a manner acceptable to the city engineer.
 - g. All printing and drawing shall be done using black India ink or waterproof plotter ink with clear, legible and uniformly sized letters, numbers and lines. The size of the lettering and width of lines shall vary according to the needs of clarifying and identifying the various items constructed and establishing clear and concise vertical and horizontal control.
 - h. Plan and profile drawings will include details of curb and gutter; sidewalks; street cross sections; locations and elevations of manholes, catch basins, storm sewers and their appurtenant works; elevations and locations of fire hydrants, water mains, type of pipe, valves and their appurtenant works; location, size and elevations of sanitary sewer mains, their grades and type of pipe (rubber gasket mandatory); manholes, cleanouts; and other appurtenant works. The drawing shall include the details for a nonculinary (irrigation) water system indicating size, location and kind of pipe, valves and turn outs. All stationing shall coincide with existing stationing as shown on existing city drawings. Station equations will not be approved except at street intersections where the stationing of the intercepting street will be shown as well as the stationing of the intercepted street.
 2. Curb And Gutter, Sidewalks And Street Surfacing: Curb and gutter, drains and drainage structures, sidewalks and street surfacing drawings should show:
 - a. Scale shall be one inch equals fifty feet (1" = 50') horizontal, one inch equals five feet (1" = 5') or one inch equals ten feet (1" = 10') vertical.
 - b. Profiles shall indicate finished and existing grades for the centerline and each side of the street at the curb-gutter line, and shall extend a minimum of two hundred feet (200') beyond the limits of the proposed project. Cross sections shall be provided when requested by the city engineer.
 - c. Stationing and top of curb elevations with curve data shall be shown for all curb returns and at least one additional control point for elevations besides those at the PC (point of curvature) and PT (point of tangency) shall be indicated on the plans and staked in the field to ensure drainage at the intersections.
 - d. Type of cross drainage structures at intersections with adequate flow line elevations.
 - e. BM (bench mark) location and elevation (use USCGS datum where possible).
 - f. Type of curb and gutter and distance back to back of curb.
 - g. Elevations for the top of curbs and road centerlines shall be shown on the plans for all PCs, PTs and at all BVCs (begin vertical curve)

- and EVCs (end vertical curve).
 - h. Complete curve data shall be shown for all horizontal and vertical curves. The minimum length of vertical curve is two hundred feet (200'), unless otherwise approved.
 - i. Street monuments are to be installed by the developer's engineer or land surveyor and shall be designated on the final drawings and approved by the city engineer. The monuments shall be accurately set at the approved locations prior to release of the improvement bond.
 - j. The developer's engineer shall, when requested by the city engineer, furnish copies of the field notes relating to any or all of the work prepared or done.
3. Sewer: Sewer drawings shall show:
- a. Scale shall be one inch equals fifty feet (1" = 50') or one inch equals one hundred feet (1" = 100') horizontal, one inch equals five feet (1" = 5') or one inch equals ten feet (1" = 10') vertical.
 - b. Location, size and grade of pipe.
 - c. Location and elevation of catch basins and all appurtenant facilities.
 - d. Manhole size, location and flow elevation.
 - e. Type of pipe (rubber gasket joints required).
 - f. BM location and elevation.
4. Water: Culinary and secondary water drawings shall show:
- a. Scale (not specified).
 - b. Size and location of water mains, valves, fittings and hydrants.
 - c. Kind of pipe.
 - d. Minimum cover.
5. Detail Drawings: Each set of plans shall be accompanied by a separate sheet of structure details which are to be constructed. All structures shall be designed in accordance with minimum standards of these specification drawings requirements:
- a. Drawing size shall be twenty four inches by thirty six inches (24" x 36").
 - b. Scale of each detail.
 - c. Title block, lower right hand corner (same format on all sheets) including the name of the developer.
 - d. Completely dimensioned and described.
6. Concept Plan: The sketch plan shall consist of a drawing on twenty four inch by thirty six inch (24" x 36") tracing vellum. Drawings shall have a one and one-half inch (1.5") margin on the left and one-half inch (0.5") margin on the three (3) remaining sides. The drawing may be in pencil but shall be clear and legible. The plan shall include the following:
- a. The name of the proposed subdivision.
 - b. The name, home and business address of the developer.
 - c. The name and business address of the project designer and engineer.
 - d. The dimensions, area and general location of the site.
 - e. North point or arrow, pointing to the left or top of sheet.
 - f. Locations of existing buildings.
 - g. Locations and names of existing streets and general location of proposed streets.
 - h. Public and private easements related to site.
 - i. Approximate section corners or lines.
 - j. Watercourses and impoundments.
 - k. Location and description of existing vegetation.
 - l. Stormwater disposal facilities; location and size of utility service (water, sewer, power, gas, telephone, cable) lines; location and type of proposed sewage disposal facilities; type of water system proposed; location of all other proposed on site and off site improvements.
 - m. Topographic contours from existing data such as USGS quads.
 - n. Soils and geologic map indicating soils types, their boundaries, and any known geologic hazards such as fault zones, unstable soils, etc.
 - o. Vicinity map.
 - p. Name and address of property owners within three hundred feet (300') of proposed subdivision.
 - q. Adjacent properties and names of owners.
 - r. Existing zoning.
 - s. Environmental impact assessment.
7. Preliminary Plat: The preliminary plat shall be drawn to a scale on standard twenty four inch by thirty six inch (24" x 36") tracing vellum or Mylar. The accuracy of location of alignments, boundaries and monuments shall be certified by a registered land surveyor licensed to do such work in the state. A workmanlike execution of the plat shall be made in every detail. A poorly drawn or illegible plat is sufficient cause for rejection. The following data shall be submitted as part of the preliminary plat submission:
- a. Name Of Subdivision: The proposed name of the subdivision.
 - b. Location Of Subdivision: Where the plat submitted covers only a part of the developer's tract, or is part of a larger vacant area, the plat shall show the location of the subdivision as it forms part of a larger tract or parcel. In such case, a sketch of the prospective future street system of the unplatted parts shall be submitted and the street system of the part submitted shall be considered in the light of adjustments and connections with the future street system of the larger area.
 - c. Information To Accurately Locate Property: Sufficient information to locate accurately the property shown on the plat.
 - d. Boundary Traverse Map: A boundary traverse map of the perimeter of the proposed subdivision. The surveying shall have an error of closure of not greater than one part in ten thousand (10,000). The boundary survey and traverse shall be certified by a land surveyor, registered to practice in the state.
 - e. Vicinity Map: A vicinity map showing perimeter outline of the plan, accesses, abutting subdivision outlines and names, and other relevant information within one-half ($\frac{1}{2}$) mile distance of the perimeter of the proposed plat. Scale not less than one inch equals two thousand feet (1" = 2,000').
 - f. Names And Addresses: The names and addresses of the developer, the engineer or surveyor of the subdivision, and the owners of the land immediately adjoining the land to be subdivided.
 - g. Zoning Changes: Proposed changes to existing zoning district boundaries or zoning classifications, if any.
 - h. Existing Conditions:

(1) Existing sanitary sewers, storm drains, water supply mains and culverts within the tract or within five hundred feet (500')

thereof.

- (2) The location, widths and other dimensions of proposed lots, streets, alleys, easements, parks and other open spaces with proper labeling of spaces to be dedicated to the public.
- (3) The location, principal dimension and names of all existing or recorded streets, alleys and easements, both within the proposed subdivision and within five hundred feet (500') of the boundary thereof, showing whether recorded or claimed by usage; the location and principal dimensions for all watercourses, including ditches, canals and natural drainage channels, public utilities and other important features and existing structures within the land and adjacent to the tract to be subdivided, including railroads, exceptional topography, airports and approaches to the airport.
- (4) The location of existing bridges, culverts, surface or subsurface drainageways, areas subject to occasional flooding, marshy areas, swamps, utilities, buildings, pumping stations or appurtenances within the subdivision or within five hundred feet (500') thereof.
- (5) The location of the nearest elevation bench mark and survey control monument.
- (6) The owners of the land immediately adjoining the land to be subdivided and the boundary lines of adjacent tracts of unsubdivided land, showing ownership and property monuments.
- (7) The existing contours at two foot (2') intervals for predominant ground slopes within the tract between level and five percent (5%) grade and five foot (5') contours for predominant ground slopes within the tract over five percent (5%) grade. Elevations shall be based on national geodetic survey sea level data. In cases of level topography through a subdivision, one foot (1') contours may be required.
- (8) A soils report prepared by a registered civil engineer, soil engineer or engineering geologist, that certifies to the types of soils, the geologic hazards, development restrictions and suitability of the area for subdivision development.
- (9) Copies of any agreements with adjacent property owners relevant to the proposed subdivision and the substance of all other covenants, grants of easements or restrictions to be imposed upon the use of the land, buildings and structures.

i. Proposed Development:

- (1) Lot and street layout.
- (2) Dimension of all lots to nearest foot (which may be scaled values).
- (3) Total acreage of entire proposed subdivision.
- (4) Lots and blocks numbered consecutively.
- (5) Locations and identification of all existing and proposed public and private easements.
- (6) Existing and proposed street names.
- (7) Street plans to show proposed grades, curb-gutter and sidewalks.
- (8) Typical street cross sections.
- (9) Proposed water facilities, including pipe diameters, valve locations, fire hydrant locations, water sources, water rights, reservoirs, pumps and design calculations.
- (10) Excavation or grading of areas requiring in excess of three foot (3') cuts or fills.
- (11) Proposed sanitary and storm sewer systems indicating pipe diameters, location of detention ponds, manholes, inlets and other pertinent appurtenances with the design calculations.
- (12) Approximate boundaries of areas subject to inundation or stormwater overflows of an intensity estimated to occur with a return frequency of once every one hundred (100) years or more.
- (13) The plat shall be drawn to a scale not less than one inch equals one hundred feet (1" = 100'), and shall indicate the basis of bearings, true north point, name of subdivision, name of municipality, township, range, section and quarter section, block and lot number of the property under consideration.
- (14) An affidavit that the applicant is the owner, the equitable owner or authorized by the owner, in writing, to make application for the proposed subdivision.
- (15) Sites, if any, to be reserved or dedicated for parks, playgrounds, schools or other public uses.
- (16) Sites, if any, for multi-family dwelling, shopping center, city facilities, industry or other uses, exclusive of single-family dwellings.
- (17) Proposed phases of development. All development and improvements to be continuous and contiguous to abutting developments.

j. Plat Format: The preliminary plat and drawings shall be prepared in the same format as the final plat and shall include the following instruments signed or to be signed and dated:

- (1) Developer's engineer and/or surveyor's signature and seal.
- (2) Owner's approval.
- (3) Planning commission approval.
- (4) City engineer's approval.
- (5) District sanitarian's approval (required only if development is not to be served by public water and sewer systems).

8. Final Plat: The final plat shall consist of a sheet of approved Mylar with trim line dimensions of twenty four inches by thirty six inches (24" x 36"), and the border line of the plat shall be drawn in heavy lines leaving a space of at least one and one-half inches (1½") on the left side and at least a one-half inch (½") margin on other sides. The plat shall be so drawn that the top of the drawing faces either north or east, whichever best accommodates the drawing. All lines, dimensions and markings shall be made on the tracing linen or Mylar with approved waterproof blue ink or black India drawing ink. The plat shall be made to a scale large enough to clearly show all details and in any case not smaller than one hundred feet to the inch (1" = 100'). Surveying, calculations, angular data, linear dimensions and bearings shall be limited to an error of closure of not greater than one part in ten thousand (10,000). The workmanship on the finished drawing shall be neat, clean and readable. The final plat shall contain the following information:

- a. Subdivision name which shall be approved by the planning commission and the general location of the subdivision in bold letters at the top of the sheet.
- b. North point, scale and graphic scale of the drawing and the date.
- c. Description of land to be included in the subdivision.
- d. Accurately drawn boundaries, showing the bearings and dimensions of all boundary lines of the subdivision, properly tied to public survey monuments. These lines should be slightly heavier than street and lot lines. When the plan is bounded by an irregular shoreline of a body of water, the bearings and distances of a closing meander traverse should be given and a notation made that the plan included all land to the water's edge as established on the date of the survey. Accurate angular and linear dimensions shall be shown for all lines, angles and curves used to describe boundaries, streets, lots, easements, areas to be reserved for public use and other important features. Parcels not contiguous shall not be included on one plat. Contiguous parcels owned by different parties may be embraced in one plat, provided all owners join in dedication and acknowledgment.
- e. Lengths shown to hundredths of a foot, and angles and bearings shown to seconds of arc.
- f. True angles and distances to the nearest established street lines or official monuments which are accurately described on the plat and

- shown by appropriate symbol.
- g. Radius, internal angles, points of curvature, tangent lengths and bearings, long tangent and bearings, the length of all arcs and the lengths of each intercepted arc.
 - h. Accurate location of all monuments to be installed shown by an appropriate symbol. All United States, state, county or other official bench marks, monuments or triangulation stations in or adjacent to the property, shown and preserved in precise position.
 - i. Bearings, distances and curve data of all perimeter boundary lines indicated outside the boundary line, not inside with the lot dimensions.
 - j. All lots and blocks numbered consecutively under a definite system approved by the planning commission. All proposed streets named or numbered in accordance with and in conformity with the Box Elder County address system. All lot street addresses assigned thereto with corner lots multiple addressed for each part of the lot having frontage on separate streets.
 - k. Accurate outlines and dimensions of any areas to be dedicated or reserved for public use, with the purposes indicated thereon, and any area to be reserved by deed or covenant for common use of all property owners.
 - l. All lands within the boundaries of the plan which shall be accounted for as either lots, walkways, streets or reserved as excepted parcels. Excepted parcels shall be marked "not included in this development" and the boundary completely indicated by bearings and distances.
 - m. All streets, walkways and easements, designated as such. Streets shall be numbered in conformity with the Box Elder County address system, which is maintained and enforced by the county surveyor.
 - n. A dedication to the city of all streets, highways, easements and other lands intended for public use that are included in the proposed subdivision.
 - o. Street monuments shall be installed by the developer's engineer or land surveyor at such points designated on the final plat as are approved by the city engineer. Standard monuments will be furnished by the developer and placed as approved.
 - p. Pipes or other such iron markers as shall be placed at each lot corner prior to final approval.
 - q. The instruments to be included on the final plat are as follows:
 - (1) The registered professional engineer and/or land surveyor's certificate of dedication.
 - (2) The owner's certificate of dedication.
 - (3) The owner's acknowledgment of responsibility.
 - (4) A notary public's acknowledgment and/or corporate acknowledgment.
 - (5) The city engineer's approval.
 - (6) The district sanitarian's approval (required only if development is not to be served by public water and sewer systems).
 - (7) The planning commission's approval.
 - (8) The city attorney's approval.
 - (9) The city council's approval.
 - (10) Signature for the mayor and attestation by the city recorder.
 - (11) An occupancy restriction.
 - (12) County surveyor's certificate.
 - (13) County recorder's block.
 - r. The location of all soils exploration pits and percolation holes shall be clearly identified on the subdivision final plat and identified by a key number or letter designation as required by Utah division of water quality rules for individual wastewater disposal systems. The results of such soils tests, including stratified depth of soils and final percolation rates for each lot shall be recorded on or with the final plat. Failure to do so shall be cause for not approving and signing the subdivision plat by the district sanitarian.

Adopted by Ord. 2007-02 on 7/11/2007

Chapter 32: IMPACT FEES

10-32-1: IMPACT FEES IMPOSED

10-32-2: SERVICE AREAS

10-32-3: TIME OF COLLECTION

10-32-4: ADJUSTMENT OF FEES

10-32-5: ACCOUNTING, EXPENDITURE AND REFUND

10-32-6: ADMINISTRATIVE CHALLENGES AND APPEALS PROCEDURE

10-32-7: CHALLENGING FEE BY ARBITRATION; PROCEDURE; APPEAL; COSTS

10-32-1: IMPACT 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, stormwater system, and parks and recreation system. The amount of the impact fee shall be set by resolution and is incorporated herein by reference.

Adopted by Ord. 2007-02 on 7/11/2007

10-32-2: 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 and parks and recreation system. The service area for the stormwater system are those areas of the city which have natural storm drainage into the areas as shown on the Honeyville City storm drain facility plan map.

Adopted by Ord. 2007-02 on 7/11/2007

10-32-3: 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.

Adopted by Ord. 2007-02 on 7/11/2007

10-32-4: ADJUSTMENT OF FEES

- A. 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.
 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 capital facilities plan and are required by the city as a condition of approving a development activity. No credit shall be given for project improvements as defined by the Utah impact fees act.
- B. The city planning commission shall make recommendations on 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. The city council shall make such adjustments based upon information submitted by an applicant or developer and any recommendations from the planning commission or other appropriate city officials or employees, including the city engineer.
- C. 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. If a person or entity is not satisfied with the city council's decision, an appeal may be made under the procedures set forth in section [10-32-6](#) of this chapter.

Adopted by Ord. 2007-02 on 7/11/2007

10-32-5: 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.

Adopted by Ord. 2007-02 on 7/11/2007

10-32-6: ADMINISTRATIVE CHALLENGES AND APPEALS PROCEDURE

- A. Any person or entity residing in or owning property within the service area, and any organization, association, or corporation representing the interests of persons or entities owning property within the service area, may file a declaratory judgment action challenging the validity of an impact fee.
- B.
1. Any person or entity required to pay an impact fee who believes the fee does not meet the requirements of law may file a written request for information with the city.
 2. Within two (2) weeks of the receipt of the request for information, the city shall provide the person or entity with the written analysis required by section 11-36-201 of the Utah code, the capital facilities plan, and with any other relevant information relating to the impact fee.
- C. Within thirty (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 Honeyville 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 city council and shall schedule a public hearing before the city council on the appeal for the purpose of receiving input from all interested persons. The city council shall thereafter render its decision on the appeal no later than thirty (30) days after the date the appeal was filed with the city recorder.
- D.
1. In addition to the method of challenging an impact fee under subsection C of this section, a person or entity that has paid an impact fee imposed by Honeyville City may challenge:
 - a. If the impact fee enactment was adopted on or after July 1, 2000:
 - (1) Whether the city complied with the notice requirements of the impact fees act with respect to the imposition of the impact fee; and
 - (2) Whether the city complied with other procedural requirements of the Utah impact fees act for imposing the impact fee; and
 - b. Except as limited by subsection D1a of this section, the impact fee.
 2. A challenge under subsection D1 of this section may not be initiated unless it is initiated within:
 - a. For a challenge under subsection D1a(1) of this section, thirty (30) days after the person or entity pays the impact fee.
 - b. For a challenge under subsection D1a(2) of this section, one hundred eighty (180) days after the person or entity pays the impact fee.
 - c. For a challenge under subsection D1b of this section, one year after the person or entity pays the impact fee.
 3. A challenge under subsection D1 of this section is initiated by filing:
 - a. The documentation required under subsection C of this section;
 - b. A request for arbitration as provided in section [10-32-7](#) of this chapter; or
 - c. An action in the first district court.
 4.
 - a. The sole remedy for a challenge under subsection D1a(1) of this section is the equitable remedy of requiring the local political subdivision to correct the defective notice and repeat the process.
 - b. The sole remedy for a challenge under subsection D1a(2) of this section is the equitable remedy of requiring the city to correct the defective process.
 - c. The sole remedy for a challenge under subsection D1b of this section is a refund of the difference between what the person or entity paid as an impact fee and the amount the impact fee should have been if it had been correctly calculated.
 5. Nothing in this subsection D may be construed as requiring a person or entity to exhaust administrative remedies with the city before filing an action in first district court under this subsection D.
 6. The protections given to the city under section 10-9a-801 of the Utah code do not apply in a challenge under subsection D1a(1) of this section.
- E. The judge may award reasonable attorney fees and costs to the prevailing party in any action brought under this section.
- F. Nothing in this chapter may be construed as restricting or limiting any rights to challenge impact fees that were paid before the effective date of this chapter.

Adopted by Ord. 2007-02 on 7/11/2007

10-32-7: CHALLENGING FEE BY ARBITRATION; PROCEDURE; APPEAL; COSTS

- A. Each person or entity intending to challenge an impact fee under subsection [10-32-6D3](#) of this chapter shall file a written request for arbitration with the local political subdivision within the time limitation provided in subsection [10-32-6D2](#) of this chapter for the applicable type of challenge.
- B. If a person or entity files a written request for arbitration under subsection A of this section, an arbitrator or arbitration panel shall be selected as follows:
 - 1. The city and the person or entity filing the request may agree on a single arbitrator within ten (10) days after the day the request for arbitration is filed; or
 - 2. If a single arbitrator is not agreed to in accordance with subsection B1 of this section, an arbitration panel shall be created with the following members:
 - a. Each party shall select an arbitrator within twenty (20) days after the date the request is filed.
 - b. The arbitrators selected under subsection B2a of this section shall select a third arbitrator.
- C. The arbitration panel shall hold a hearing on the challenge within thirty (30) days after the date:
 - 1. The single arbitrator is agreed on under subsection B1 of this section; or
 - 2. The two (2) arbitrators are selected under subsection B2a of this section.
- D. The arbitrator or arbitration panel shall issue a decision in writing within ten (10) days from the date the hearing under subsection C of this section is completed.
- E. Except as provided in this section, each arbitration shall be governed by the Utah uniform arbitration act, title 78B, chapter 11 of the Utah code.
- F. The parties may agree to:
 - 1. Binding arbitration;
 - 2. Formal, nonbinding arbitration; or
 - 3. Informal, nonbinding arbitration.
- G. If the parties agree in writing to binding arbitration:
 - 1. The arbitration shall be binding;
 - 2. The decision of the arbitration panel shall be final;
 - 3. Neither party may appeal the decision of the arbitration panel; and
 - 4. Notwithstanding subsection J of this section, the person or entity challenging the impact fee may not also challenge the impact fee under any subsection of this chapter.
- H.
 - 1. Except as provided in subsection H2 of this section, if the parties agree to formal, nonbinding arbitration, the arbitration shall be governed by the provisions of title 63G, chapter 4 of the Utah code.
 - 2. For purposes of applying title 63G, chapter 4 to a formal, nonbinding arbitration under this section, notwithstanding section 63G-4-502, "agency" means Honeyville City.
- I.
 - 1. An appeal from a decision in an informal, nonbinding arbitration may be filed with the first district court.
 - 2. Each appeal under subsection I1 of this section shall be filed within thirty (30) days after the date the arbitration panel issues a decision under subsection D of this section.
 - 3. The district court shall consider de novo each appeal filed under this subsection I.
 - 4. Notwithstanding subsection J of this section, a person or entity that files an appeal under this subsection I may not also challenge the impact fee under subsection 11-36-401(1), 11-36-401(4)(c)(i), or 11-36-401(4)(c)(iii) of the Utah code.
- J.
 - 1. Except as provided in subsections G4 and I4 of this section, this section may not be construed to prohibit a person or entity from challenging an impact fee as provided in subsection 11-36-401(1), 11-36-401(4)(c)(i), or 11-36-401(4)(c)(iii) of the Utah code.
 - 2. The filing of a written request for arbitration within the required time in accordance with subsection A of this section tolls all time limitations under section [10-32-6](#) of this chapter until the date the arbitration panel issues a decision.
- K. The person or entity filing a request for arbitration and Honeyville City shall equally share all costs of an arbitration proceeding under this section.

Adopted by Ord. 2007-02 on 7/11/2007

Chapter 33: SUBDIVISION IMPROVEMENTS

- [10-33-1: IMPROVEMENTS REQUIRED](#)
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10-33-1: IMPROVEMENTS REQUIRED

- A. Compliance: No final plat of a subdivision of land shall be recorded without receiving a statement signed by the city engineer certifying that the

improvements described in the developer's plans and specifications meet the minimum requirements of all ordinances of the city, that they comply with the recommendations of the local and/or state board of health, the planning commission, the fire department and other city departments and with the standards, rules and regulations for subdivisions approved by the city council, which standards, rules and regulations are hereby incorporated in this title by reference.

- B. Guarantee: No final plat of a subdivision of land shall be recorded unless the developer shall furnish to the city a guarantee in an amount equal to one hundred fifteen percent (115%) of the reasonable cost of the improvements required by this chapter. The amount of the guarantee shall be estimated by the developer's engineer and approved by the city engineer and conditioned upon payment by the developer of all expenses incurred and for all labor or material used in the construction of required improvements. The provisions of the guarantee shall be for the protection of laborers and material men and to guarantee the quality, quantity and performance of all improvements as required herein. In no event shall the city be deemed liable under this chapter on any claim asserted by a laborer or material provider.

Adopted by Ord. 2007-02 on 7/11/2007

10-33-2: ESSENTIAL FACILITIES

The developer of any land shall install or guarantee the installation of the following essential facilities as needed to serve a development in compliance with applicable construction standards:

- A. Water Supply: Developers shall obtain approval from the city council for water rights and connections to any public or private culinary water system. In cases where it is not feasible to hook into a public or private water system, developers shall develop a water system that conforms with the standards of the state division of safe drinking water, Bear River health department and city standards, including fire protection standards.
- B. Secondary Water Supply:
1. When secondary water rights are available to the land to be subdivided, the developer shall install the water main valves, turn outs and service lines or laterals for such mains prior to the installation of road base, surfacing, curb, gutters and sidewalks.
 2. When culinary water is unavailable to satisfy irrigation needs of the land to be subdivided, the developer shall develop a secondary water system to meet such needs.
- C. Sewage Disposal:
1. Sewage disposal shall be achieved by connecting to a sanitary sewer collection system approved by the Bear River health department.
 2. The department shall issue a permit for each lot according to its capacity to support an individual sewage disposal system. In such case and before a final plat may be recorded, the district sanitarian shall certify that the soils exam, completed at the developer's expense, indicates that individual sewage disposal systems are feasible.
 3. Each final plat shall include the words "no proposed public sewage disposal system" unless a public sewer system is available to serve the lots in the plat.
- D. Stormwater Drainage:
1. The developer shall obtain approval from the city engineer for plans to control stormwater to assure that any increase in stormwater runoff will not flow from the subdivision to adjacent properties, unless drainage easements have first been obtained for such properties.
 2. Final plans for the drainage system shall be prepared by a licensed engineer and shall include all pipe, inlets, manholes, detention ponds, outlet structures and appurtenant works, including such bridges and culverts as may be needed. The width of bridges or lengths of culverts shall be equal to the width of the street right of way but not more than sixty six feet (66') for any one bridge or culvert. The complete stormwater drainage system shall be installed prior to the surfacing of streets and the installation of road base, curbs, gutters and sidewalks.
- E. Road Improvements:
1. Unless otherwise permitted by an express provision of this title, each road to be constructed and dedicated to the city shall meet city standards and shall have a minimum improved width consisting of thirty five feet (35') of bituminous surfacing and two and one-half feet (2.5') wide curb/gutter on each side for a total improved width of forty feet (40'). Sidewalks shall be required on each side of the street between the curb/gutter and right of way line in conformance with applicable construction standards. Road right of way widths shall conform to the design standards set forth in section [10-31-2](#) of this title.
 2. A developer of a subdivision which abuts a substandard street shall dedicate and improve additional right of way necessary to meet the street standards required to serve the subdivision.
- F. Fire Protection: Fire hydrants shall be placed within five hundred feet (500') of one another throughout a subdivision and installed accordingly as required by applicable building and fire codes.
- G. Utility Services: A developer shall be responsible for securing service agreements with local electrical, telephone, and natural gas providers and shall be financially responsible for any associated costs to extend such utilities to a development.
- H. Street Signs: The contractor will furnish and install all necessary street signs at required locations and in conformance with city standards.
- I. Monuments: Permanent monuments shall be accurately set and established at such points as are necessary to definitively establish all lines of a subdivision plat, except those outlining individual lots. Monuments shall be of a type approved by the city engineer. All subdivision plats shall be tied to a section corner, a monument of record, or an established land office survey corner.

Adopted by Ord. 2007-02 on 7/11/2007

10-33-3: ORDER OF MAKING IMPROVEMENTS

- A. Compliance With Construction Standards: The improvements required in this title shall be installed in compliance with applicable construction standards. No improvements shall be installed until their location and specifications are approved by the city engineer.
- B. Underground Installations: Unless waived in writing by the city engineer, all underground utilities, water, sewer and gas laterals and fire hydrants shall be installed prior to road base, curbs, gutters, sidewalks and surfacing the streets.

Adopted by Ord. 2007-02 on 7/11/2007

10-33-3.5: SIGNATURE BLOCKS

SURVEYOR'S CERTIFICATE

I, _____, a registered professional land surveyor, holding Certificate No., as prescribed by the laws of the State of Utah, and do hereby certify that by authority of the owners, I have made a survey of the tract of land shown on this plat and described herewith, and have subdivided said tract of land into lots and streets to be hereafter known as, and that the same has been surveyed and staked on the ground as shown on this plat.

Signed on this _____ day of _____, ____.

Registered Land Surveyor

OWNER'S DEDICATION

Know all men by these presents that we, the undersigned owners of the described tract of land below, having caused the same to be subdivided into lots and street to hereafter be known as _____, do hereby dedicate for perpetual use of the public all parcels of lands owned on this plat as intended for public use, and do warrant, defend, and save the City harmless against any easements or other encumbrances on the dedicated streets which will interfere with the City's use, operation, and maintenance of the streets and do further dedicate the easements as shown.

In witness thereof, we have hereunto set our hands this _____ day of _____, ____.

Signed

Signed

OWNER'S ACKNOWLEDGMENT OF RESPONSIBILITY

Know all men by these presents that we, the undersigned owners of the tract(s) of land contained within in the Subdivision Boundary described hereon, acknowledge that failure of the Local Jurisdiction or Planning Commission to observe or recognize hazardous, unknown or unsightly conditions, or to recommend denial of the subdivision because of said unrecognized hazardous, unknown or unsightly conditions shall not relieve the developer or owner from responsibility for the condition or damages resulting therefrom, and shall not result in the Local Jurisdiction or Planning Commission, its officers or agents, being responsible for the conditions and damages resulting therefrom.

In witness thereof, we have hereunto set our hands this _____ day of _____, ____.

Signed

Signed

ACKNOWLEDGMENT

STATE OF UTAH) ss.
County of _____)

On the _____ day of _____ A.D., _____, personally appeared before me, the undersigned Notary Public, in and for said County of _____, in the State of Utah, the signer(s), of the above Owner's Dedication and Owner's Acknowledgment of Responsibility, _____ in number, who dully acknowledged to me that _____ signed it freely and voluntarily and for the uses and purposes therein mentioned.

NOTARY PUBLIC

Residing at

My Commission expires:

CORPORATE ACKNOWLEDGMENT

STATE OF UTAH) ss.
County of _____)

On this the _____ day of _____ A.D., _____, personally appeared before me, the undersigned Notary Public, in and for the State and County _____, who after being a duly sworn, acknowledged to me that _____, a corporation, that signed the Owner's Dedication and Owner's Acknowledgment of Responsibility freely and voluntarily for and in behalf of the corporation for the purpose therein mentioned and that the corporation executed the same.

NOTARY PUBLIC

Residing at

My Commission expires:

OCCUPANCY RESTRICTION

HONEYVILLE CITY has an ordinance which restricts the occupancy of buildings within this Subdivision. Accordingly, it is unlawful to occupy a building located within this Subdivision without first having obtained a certificate of occupancy issued by CITY Building Inspector.

HONEYVILLE CITY PLANNING COMMISSION APPROVAL

Approved this _____ day of _____ A.D., _____ by the Honeyville City Planning Commission.

CHAIRMAN

CITY ATTORNEY'S APPROVAL AS TO FORM

Approved as to form this _____ day of _____ A.D., _____.

HONEYVILLE CITY ATTORNEY

BOX ELDER DISTRICT HEALTH DEPARTMENT APPROVAL

Waste Disposal System and Culinary Water System Approval this _____ day of _____, _____.

DISTRICT SANITARIAN

** (required only if development is not to be served by public sewer and water systems)

CITY COUNCIL APPROVAL AND ACCEPTANCE

Presented to the Honeyville City Council this _____ day of _____ A.D., _____ at which time this Subdivision and the Owner's Dedication was approved and accepted.

ATTEST:

CITY RECORDER

MAYOR

CITY ENGINEER'S APPROVAL

I certify that I have had this plat examined and find that it is correct and in accordance with the information on file in this office. I also certify that a copy of all accepted improvement plans for this subdivision have been submitted to this office each affixed with a stamp and signature of a Professional Engineer registered in the State of Utah who is not in the employ of the owner or developer.

DATE

CITY ENGINEER

COUNTY RECORDER NO. _____

State of Utah, County of _____, recorded and filed at the request of _____.

Date _____ Time _____

Fee ☐☐☐☐☐☐☐☐☐☐☐☐ Abstracted ☐ _____

Index _____

Filed: _____

COUNTY RECORDER

10-33-4: MINIMUM IMPROVEMENTS NEEDED FOR OCCUPANCY PERMIT

No occupancy permit shall be issued until the following improvements are installed and approved in writing by the city engineer:

- A. Underground utilities including telephone, electrical, gas and water facilities.
- B. Sanitary sewer and storm systems.
- C. Curb, gutter, sidewalk and road base.

Adopted by Ord. 2007-02 on 7/11/2007

10-33-5: IMPROVEMENTS COMPLETION

All improvements, including the street paving, shall be completed within twelve (12) months after issuance of the first building permit in a subdivision. Seal and chip paving shall be completed within two (2) years after approval of a final plat.

10-33-6: PHASED DEVELOPMENT; IMPROVEMENTS CONTINUOUS, ORDERLY

Whenever a developer develops a subdivision one phase at a time, such development shall be completed in an orderly manner and in such a way that the required improvements will be continuous and all of the said improvements will be made available for the full, effective and practical use and enjoyment thereof by the purchasers, lessees, grantees, assignees or transferees of any of the lands subdivided within the time hereinbefore specified or within the phases specified.

Adopted by Ord. 2007-02 on 7/11/2007

10-33-7: COST DISTRIBUTION

Every developer shall pay a roughly proportionate share of any on or off site improvements necessary to serve a development, as reasonably determined by the city engineer.

Adopted by Ord. 2007-02 on 7/11/2007

10-33-8: OVERSIZED FACILITIES

When it is determined by the city engineer that specifications for subdivision improvements are not adequate to meet the demands above and beyond the demands within the subdivision and it is necessary for said improvements to serve intervening or other properties, the developer will be required to install "oversized" facilities. Reimbursement for costs shall be handled through a cost sharing agreement with the developer and/or the property owners who benefit from the improvements.

Adopted by Ord. 2007-02 on 7/11/2007

10-33-9: COST SHARING AGREEMENT

- A. Conditions: Whenever any intervening property is located between the terminus of an existing service facility and the proposed subdivision, and the intervening property will be benefited by the installation of any of the required facilities, the developer shall pay for having all facilities, not installed by a utility company, constructed over, under and/or across the intervening property. If approved by the city council, before approval of a final plat and prior to any construction, the developer may enter into an agreement with the city for a partial cost reimbursement, otherwise agreements shall be made with intervening property owners.
- B. Actual Construction Costs; Determination: The cost of the facilities to be included in a cost sharing agreement shall be the actual construction cost as determined by competitive bids and shall include all costs for having the facilities installed, including legal, administrative and engineering costs.
- C. Proportionate Share Stated: The agreement shall state the proportionate share of the costs to be borne by the developer and the proportionate share to be reimbursed to the developer from fees collected from the intervening property owners.
- D. Deferred Credit: The city shall thereafter enter a deferred credit in its books and records and shall charge the benefited property owners the fee rates for sewer, water and electrical connections in effect at the time such connections are made. Such fees, not to exceed the maximum stated in the agreement, shall then be returned to the developer to reimburse the developer for the proportionate share of the costs of the installation of the facilities. The city may also elect to reimburse the developer for such "off site" facilities after the developer has furnished the city with acceptable evidence that an agreed number of housing units are occupied. No interest shall accrue or become payable on such reimbursement. Engineering drawings showing benefited property shall be prepared by the developer's engineer.

Adopted by Ord. 2007-02 on 7/11/2007

10-33-10: INSPECTION

- A. Continuous Inspections:
 1. All construction work involving the installation of improvements in subdivisions shall be subject to inspection by the city and the construction standards of the following types of improvements. The city engineer or other authorized representative of the city shall make continuous inspections on the following improvements:
 - a. Street surfacing, including seal coats.
 - b. Preparation of base and pouring of concrete for curb and gutter, sidewalks and other structures.
 - c. Laying of sewer pipe, drainage pipe, water pipe, valves, hydrants and all pipe testing.
 - d. Installation of any mechanical equipment.
 2. Arrangement for inspection must be made with the city engineer at least seven (7) days prior to beginning construction of the improvements requiring continuous inspection.
- B. Periodic Inspections:
 1. The city engineer or other authorized representative of the city shall make periodic inspections on the following improvements:
 - a. Street grading and gravel base.
 - b. Excavations for curb and gutter and sidewalks.
 - c. Excavations for structures.
 - d. Trenches for laying pipe.
 - e. Forms for curb and gutter, sidewalk and structures.
 2. Notice to the city engineer shall be given three (3) days in advance of the starting of work requiring periodic inspection.
- C. Inspections By Developer's Engineer:
 1. The developer shall require his engineer to make inspections as often as necessary in order to assure the developer that the improvements are being properly installed, that the improvements comply with the intent of the construction standards and that all improvements are laid to the proper grade, alignment and depth, and are constructed of the required quality of materials and that errors in design and/or construction are corrected before acceptance by the city.
 2. Prior to making a request for partial release of escrow funds or conditional acceptance of the subdivision improvements, the developer shall request that his engineer inspect the improvements and certify as to their acceptability. The certificate shall be attached to all partial release requests and the request for conditional acceptance.

- D. Materials, Equipment Used: Materials and equipment used in the construction of improvements shall be subject to adequate inspection and testing in accordance with generally accepted standards.
- E. Continuous Inspection And Testing By City: In order to further assure the city that the intent of the construction standards and this title are being complied with, the city shall provide the continuous inspection and testing services at the expense of the developer. Payment for this service will be made monthly from the escrow account or from funds deposited with the city by the developer.
- F. City Engineer Represents City: The city engineer shall act as the city's representative during the construction period and shall:
 - 1. Decide questions which may arise as to quality and acceptability of materials furnished and work performed.
 - 2. Interpret the intent of construction standards in a fair and unbiased manner.
 - 3. Make periodic visits to the site and determine if the work is proceeding in accordance with the provisions of this title.
- G. Responsibility:
 - 1. Each developer shall be solely responsible for complying with applicable construction standards and the provisions of this title in regard to the quality of materials, workmanship and execution of the work.
 - 2. The city engineer shall be responsible for the construction means, controls, techniques, sequences, procedures or construction safety.
- H. Performance Obligation Of Developer: Inspections, tests or approvals by the city engineer or other agent representing the city shall not relieve the developer from his obligation to perform the work in accordance with the requirements of the construction standards and this title.

Adopted by Ord. 2007-02 on 7/11/2007

10-33-11: GUARANTEE OF WORK

Each developer shall warrant and guarantee for a period of two (2) years from the date of the city's "conditional acceptance" that all improvements are free from defects due to faulty materials or workmanship. Such guarantee shall include street base, pipes, joints, valves, backfill, and compacting, the working surface, curbs, gutters, sidewalks and other accessories that are, or may be, affected by the developer's construction operations. Each improvement guarantee shall remain in effect until the developer receives final written acceptance from the city at the conclusion of the guarantee period.

- A. Repairs: Each developer shall, at no cost to the city, promptly make such corrections as may be necessary by reason of any improvement defects, including repair of damage to other improvements resulting from such defects. The city shall give notice of observed defects with reasonable promptness. In the event the developer fails to make such repairs, adjustments or other work that may be necessary due to such defects, the city may perform developer's obligations and charge the developer the cost thereby incurred.
- B. City Engineer Determination: The city engineer shall determine the necessity for repairs of improvements whose decision shall be final and binding upon the developer.
- C. Completion Of Repairs: Whenever, in the judgment of the city engineer, improvements shall be in need of repair, the engineer shall cause written notice to be served on the developer. Thereafter the developer shall promptly complete such repairs. If the developer fails to complete repairs or make arrangements therefor within ten (10) days from the date of the service of such notice, the city engineer shall, upon approval of the city council, have such repairs made. The cost of such repairs shall be paid by the developer, together with twenty five percent (25%) additional for stipulated damages for such failure on the part of the developer to make such repairs.

Adopted by Ord. 2007-02 on 7/11/2007

10-33-12: IMPROVEMENT GUARANTEE

- A. Required: Each developer shall execute a written improvement agreement, recorded in the office of the city recorder, where developer agrees that the subdivided property will not be leased or conveyed to any person unless all required improvements are installed or in lieu of installation, the developer furnishes the city, when the final plat is approved, one of the following guarantees, approved by the city council, that improvements, not then installed, will be constructed and paid for within a period of two (2) years from the date of subdivision approval:
 - 1. A bond with a corporate surety in an amount equal to one hundred fifteen percent (115%) of the cost of the improvements, plus costs estimated by the city engineer to perform inspection of said improvements by the city engineer's staff.
 - 2. A deposit in escrow with an escrow holder in an amount of money equal to one hundred fifteen percent (115%) of the cost of the improvements, plus costs estimated by the city engineer to perform inspection of said improvements by the city engineer's staff.
 - 3. An irrevocable letter of credit from a financial institution is filed with the city which contains provisions substantially similar to those required in the escrow agreement.
- B. Covenant Running With Land: The improvement agreement shall specifically provide that it shall be deemed to be a covenant running with the subdivided land for the benefit of the city and shall particularly and accurately describe said land. The agreement shall further provide that the developer shall grant the city a lien on said land to secure the installation of all required improvements, together with the payment of all costs, including reasonable attorney fees which the city may incur in enforcing the terms of the agreement and costs of inspection by the city engineer's staff.
- C. Approval By City Attorney: The improvement agreement shall be approved as to form by the city attorney.
- D. Scope Of Agreement: An improvement agreement shall be restricted to guaranteeing installation of applicable improvements and shall be separate from any developer financing or funding program.
- E. Funds Release: Funds can be released or the amount of the bond or letter of credit decreased only upon receipt of written authorization signed by the mayor of the city council.

Adopted by Ord. 2007-02 on 7/11/2007

10-33-13: PARTIAL RELEASE OF FUNDS

- A. Authority: At the request of a developer the city council may release from a bond, an escrow agreement, or a covenant and lien, the estimated costs of improvements installed and approved by the city engineer.
- B. Application For Partial Release:
 - 1. At least ten (10) days before a partial release is desired (but not more often than once a month), the developer shall submit to the city engineer for review, an application for release, signed by the developer, which details the work completed as of the date of the application and supported by such data as the city engineer may reasonably require. The developer shall include with the release application a written statement of the current status of the escrow account signed by an officer of the bonding company, the escrow agent, or the institution issuing the letter of credit. The statement shall show the total dollars included in the agreement, the date, the amount of the releases to date, and funds remaining.
 - 2. The developer shall warrant that title to all work, materials, and equipment covered by an application for release, whether incorporated in the

work or not, will have passed to the city prior to the making of the application, free and clear of all liens, claims, security interest and encumbrances; and that no work, materials, or equipment covered by an application for release will have been acquired by the developer or by any other person performing the work at the site or furnishing materials and equipment for the project.

3. The city engineer shall, within ten (10) days after receipt of each application for release, either indicate in writing his approval of release and present the application to the city or return the application to the developer, indicating in writing his reasons for refusing to approve release. In the latter case, the developer may make necessary corrections and resubmit the application. The city shall, within thirty (30) days of presentation to it of an approved application for release, release the amount approved by the city engineer.

C. Approval Of Payments Of The Application:

1. The city engineer's approval of a requested release shall constitute a representation to the city that the subject improvements have been completed, to the best of the engineer's knowledge, information, and belief, in accordance with applicable construction standards. However, by approving any such payment, the city engineer shall not be deemed to have represented that the engineer:
 - a. Made exhaustive or continuous on site inspections,
 - b. Checked the quality or quantity of the work,
 - c. Reviewed the means, methods, techniques, sequences and procedures of construction, or
 - d. Made any examination to ascertain how or for what purpose the developer has used the monies released.
2. The city engineer shall refuse to approve a release application if the foregoing representations to the city cannot be made. The engineer may also refuse to approve a release if subsequent evidence nullifies a previously approved release and such action is necessary to protect the city from loss because:
 - a. The work is defective;
 - b. Claims have been filed or there is reasonable evidence indicating the probable filing thereof;
 - c. The city has been required to correct defective work or complete the work; or
 - d. Unsatisfactory execution of the work, including failure to clean up as required.
3. A developer shall not obtain a release from the bonds, withdraw from the covenant and lien improvements guarantee any amount in excess of one hundred percent (100%) of the estimated cost of the improvements, but shall pay from other sources any costs for such improvements which exceed one hundred percent (100%) of the costs approved by the city engineer.
4. If a developer installs any or all required improvements prior to final plat approval, the developer shall furnish the city one of the three (3) guarantees listed in subsection [10-33-12A](#) of this chapter at the time the final plat is approved, in an amount equal to fifteen percent (15%) of the cost of the improvements as a guarantee that the improvements, as installed, shall remain free from defects and shall be maintained by the developer until final acceptance by the city council.
5. If a developer furnishes a bond, an escrow, or letter of credit, the city council shall hold the remaining fifteen percent (15%) as a guarantee that the improvements, as installed, shall remain free from defects and shall be maintained by the developer until final acceptance by the city council. If the fifteen percent (15%) retainage is in the form of money deposited in an escrow account, release of said retained funds may be effected by the developer providing the developer files a bond, or furnishes an irrevocable letter of credit with the city council in an amount equal to the fifteen percent (15%) being retained.
6. At any time during the guarantee period and in the event the required improvements are not installed within two (2) years, or are not being maintained during the guarantee period, after conditional acceptance, or are found to have latent defects, the city engineer shall, by written notice, advise the developer that:
 - a. Necessary installation, construction, repair or replacement shall be made within thirty (30) days, which may be extended by the city council at its sole discretion,
 - b. The city will make the necessary installation, construction, repair or replacement if the developer does not do so within the time permitted, and
 - c. The city will exercise its rights, as contained in the improvement agreement, to obtain the funds and/or pay for the installation, construction, repair or replacement of the required improvements.
7. If, after one year after the city has conditionally accepted the improvements required by this title, the required improvements remain substantially free from latent defects, the city council may release to the developer the balance of the bond, escrow account, and/or letter of credit. This release and any prior approval of the city engineer shall not relieve the developer of any of his responsibilities as required by this title, which includes guaranteeing the improvements for a total of two (2) years from the date of conditional acceptance.

Adopted by Ord. 2007-02 on 7/11/2007

10-33-14: CONDITIONAL ACCEPTANCE

- A. Request: After all required improvements are complete, each developer shall, in writing, notify the city and the city engineer that improvements are complete and shall request conditional acceptance by the city. A conditional acceptance request shall be accompanied by:
 1. A certificate, signed by the developer's engineer, attesting to the fact that all improvements are installed, free from defects, and comply with applicable construction standards. Any variation from said standards shall be noted in the certificate.
 2. A Mylar copy of the as built construction drawings.
- B. Inspection: Within ten (10) days of receiving the notice, the city engineer shall inspect and notify the developer in writing of any work that is defective. The developer shall immediately remedy such defects.
- C. Construction Drawings: After all required improvements have been satisfactorily installed and approved by the city engineer, and as a requirement of "conditional acceptance", the developer shall furnish a Mylar or Mylar copy of all original construction drawings. These drawings shall show the "as constructed" condition of all improvements.
- D. Notice Of Acceptance: The city engineer shall, as soon as improvements are acceptable and after receipt of the as built drawings, notify the city council in writing that the improvements have been approved. The city council shall, within fifteen (15) days after receipt of the city engineer's approval, present to the developer a notice of conditional acceptance establishing the date for beginning the two (2) year guarantee period.

Adopted by Ord. 2007-02 on 7/11/2007

10-33-15: FINAL ACCEPTANCE AND RELEASE

- A. Request: Each developer shall be responsible for making a written request for final acceptance and release. The request shall be made at least twenty (20) days prior to the termination date of the guarantee period. The city engineer shall, within ten (10) days thereafter, inspect subdivision improvements. If defects exist, the city engineer shall notify the developer, in writing, who shall promptly replace and/or repair all defective work.
- B. Notification: When the improvements are acceptable, the city engineer shall notify the city council, in writing, which shall, within fifteen (15) days of receipt of said notice, issue a letter of final acceptance and release.

10-33-16: ACCEPTANCE PERIOD

Requests for conditional and final acceptance shall be made during periods when all improvements can be visually inspected by the city engineer. Any improvements buried with soil or snow or otherwise not visible shall not be approved. Generally, no acceptances will be made from November through and including February.

Adopted by Ord. 2007-02 on 7/11/2007

Chapter 34: WIND ENERGY SYSTEMS AND FACILITIES

10-34-1 PURPOSE

10-34-2 REQUIREMENTS: WIND ENERGY SYSTEM, SMALL

10-34-3 REQUIREMENTS: WIND ENERGY SYSTEMS, COMMERCIAL

10-34-4 REQUIREMENTS OF WIND MONITORING TOWER AND EQUIPMENT (MET TOWER)

10-34-5 NONUSE

10-34-6 APPLICABILITY

10-34-1 PURPOSE

The purpose of this chapter is to establish minimum requirements and regulations for the placement, construction and modification of small wind energy systems, commercial wind energy systems, and wind metering towers and equipment, as defined herein, while promoting the safe, effective and efficient use of use systems.

Adopted by Ord. 2010-01 on 5/12/2010

10-34-2 REQUIREMENTS: WIND ENERGY SYSTEM, SMALL

- A. Permitted Locations. A small wind energy system is permitted as described in Section 10-10, Table of Uses, 10-10-8, 10-12-8 or 10-13-8 of the Honeyville City Zoning Ordinance. A small wind energy system is not permitted in a subdivision recorded with the Box Elder County Recorder and zoned A-5, A-20, Commercial or Industrial unless a private occupied residence or business exists on the same lot.
- B. Minimum Lot Size. No wind energy system shall be erected on any lot less than five acres in size.
- C. Total Height. For property sizes of five acres, the total height shall not exceed seventy-five feet. For property sizes of greater than five acres but less than twenty acres, the total height shall not exceed one hundred feet. For property sizes of twenty acres or greater, the total height shall not exceed one hundred twenty-five feet.
- D. Location. No small wind energy system shall be located in any front or side yard.
- E. Setbacks.
 1. Property Lines. A small wind energy system tower shall be set back from the nearest property line, public road right-of-way, tanks containing combustible/flammable liquids, other wind energy towers, and aboveground communication or electrical line not less than 1.5 times its total height.
 2. Inhabitable or Public Structures. A small wind energy system shall be set back from the nearest inhabitable structure (residence) or public building or gathering place (i.e., church, hospital, school, library, park, playground, etc.), not less than 1.5 times its total height.
- F. Design Standards.
 1. Pole or Tower Design. The design of the small wind energy system shall be of a monopole or freestanding design or guy wired tower.
 2. Minimum Blade Height. The minimum height of the lowest extent of a turbine blade shall be thirty feet above the ground or fifteen feet above any structure or obstacle within the fall zone of the tower.
 3. Safety/Access.
 - a. No tower shall have a climbing apparatus within twelve feet of the ground. All access doors or access ways to towers and electrical equipment shall be locked.
 - b. Appropriate warning signage shall be placed on towers, electrical equipment and wind energy system entrances.
 4. Noise. No small wind energy system shall exceed sixty dBA as measured at the property line or fifty dBA as measured at the nearest neighboring inhabitable building. All small wind energy systems must have a manufacturers' maximum RPM (revolutions per minute) rating of less than five hundred.
 5. Visual Appearance.
 - a. Small wind energy systems shall be finished and maintained as manufactured.
 - b. No small wind energy system shall be lighted unless required by the Federal Aviation Administration (FAA).
 - c. No advertising signs of any kind or nature whatsoever shall be permitted on any small wind energy system.
 - d. The design of any buildings or related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the facility into the natural setting and existing environment.
 - e. Appropriate landscaping shall be provided to screen accessory structures from roads and adjacent residences.
 6. Electrical Interconnections. All electrical interconnection or distribution lines shall be underground and comply with all applicable codes and public utility requirements.
 7. Signal Interference. Efforts shall be made to site small wind energy systems to reduce the likelihood of blocking or reflecting television and other communication signals. If signal interference occurs, both the small wind energy system owner and individual receiving interference shall make reasonable efforts to resolve the problem. No small wind energy system shall cause permanent and material interference with television or other communication signals.
 8. Overspeed Controls. Every small wind energy system shall be equipped with an automatic overspeed control and a manual brake.
 9. Fire Protection. All wind energy systems shall have a defensible space for fire protection in accordance with the Box Elder County Wildland-Urban Interface Code.
- G. Permit Applications. Application for a wind energy system shall include the following information:
 1. Site plan to scale showing the location of the proposed wind energy system and the locations of all existing buildings, structures and property lines along with distances, including, a drawing depicting the area and procedure required for raising and lowering the tower, and identifying the fall zone for the total height of the tower and equipment;
 2. Elevations of the site to scale showing the height, design and configuration of the wind energy system and the height and distance to all existing structures, buildings, electrical lines and property lines;
 3. Standard drawings and an engineering analysis of the systems tower, including weight capacity;

4. A standard foundation and anchor design along with soil conditions and specifications for the soil conditions at the site;
5. Specific information on the type, size, rotor material, rated power output, performance, safety and noise characteristics of the system, including the name and address of the manufacturer, model;
6. Emergency and normal shutdown procedures, including the operation of a manual brake;
7. A line drawing of the electrical components of the system in sufficient detail to establish that the installation conforms to all applicable electrical codes;
8. Evidence that the provider of electrical service of the property has been notified of the intent to install an interconnected electricity generator, unless the system will not be connected to the electricity grid. If applicable, prior to final approval, the applicant shall provide evidence that the net-metering interconnection application has been applied for, or:
 - a. A work order number from the utility company has been acquired (for net-metering), and/or
 - b. Proof that an application for tax credit or rebate has been submitted to the state of Utah or applicable utility.

Adopted by Ord. 2010-01 on 5/12/2010

10-34-3 REQUIREMENTS: WIND ENERGY SYSTEMS, COMMERCIAL

- A. Permissible Locations. A commercial or Industrial wind energy system may be permitted as described in Section 10-12-8 or 10-13-8, Table of Uses, Honeyville City Zoning Ordinance.
- B. Minimum Parcel Size. No commercial wind energy system shall be erected on any parcel smaller in size than is required to contain the entire fall zone of the tower and equipment on the same parcel, unless applicable adjacent parcels are also a part of the wind energy system (adequate to provide for the entire fall zone-total height times 1.5-required by the established setbacks).
- C. Total Height. The total height of a commercial wind energy system shall not exceed the height prescribed in the conditions established in the required conditional use permit.
- D. Setbacks.
 1. Project Boundary Lines. A commercial wind energy system tower shall be set back from the nearest project boundary line, public road right-of-way, tanks containing combustible/flammable liquids, other wind energy towers, and aboveground communication or electrical lines, not less than 1.5 times its total height. All property within the project boundary must be included in a recorded easement(s) or consent agreement(s) specifying the applicable uses for the duration of the project.
 2. Other Uses. No commercial wind energy system shall be located within one-half of a mile of a platted subdivision, park, church, hospital, school or playground.
- E. Design Standards. A commercial wind energy system shall comply with the design standards set forth below. A commercial wind energy system shall demonstrate that structure location and siting will not result in undesirable shadow flicker on an adjacent property/structure.
 1. Pole or Tower Design. The design of the commercial wind energy system shall be of monopole or freestanding design with no guy wired towers.
 2. Minimum Blade Height. The minimum height of the lowest extent of a turbine blade shall be thirty feet above the ground or fifteen feet above any structure or obstacle within the fall zone of the tower.
 3. Safety/Access.
 - a. No tower shall have a climbing apparatus within twelve feet of the ground. All access doors or access ways to towers and electrical equipment shall be locked.
 - b. Appropriate warning signage shall be placed on towers, electrical equipment and wind energy system entrances.
 4. Noise. No commercial wind energy system shall exceed 60 dBA as measured at the property line or as measured at the nearest neighboring inhabitable building. Manufacturers' specifications for both RPM (revolutions per minute) ratings and maximum noise levels shall be used to evaluate the noise level maximum requirements as a condition established in the required conditional use permit.
 5. Visual Appearance.
 - a. Commercial wind energy systems shall be finished and maintained in color and material as manufactured.
 - b. No commercial wind energy system shall be lighted unless required by the Federal Aviation Administration (FAA).
 - c. No advertising signs of any kind or nature whatsoever shall be permitted on any commercial wind energy system.
 - d. The design of any buildings or related structures shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the facility into the natural setting and existing environment.
 - e. Appropriate landscaping shall be provided to screen accessory structures from roads and adjacent residences.
 6. Electrical Interconnections. All electrical interconnection or distribution lines within the project boundary shall be underground, unless determined otherwise by the planning commission because of unusual site conditions, and comply with all applicable codes and public utility requirements. Overhead transmission lines may be permitted as they come to a common area such as a substation and/or leave the location of the towers and energy generation system/equipment to off-site destinations.
 7. Signal Interference. Efforts shall be made to site commercial wind energy systems to reduce the likelihood of blocking or reflecting television and other communication signals. If signal interference occurs, both the commercial wind energy system owner and individual receiving interference shall make reasonable efforts to resolve the problem. No commercial wind energy system shall cause permanent and material interference with television or other communication signals.
 8. Fire Protection. All wind energy systems shall have a defensible space for fire protection in accordance with the Box Elder Wildland-Urban Interface Code.
- F. Permit Applications. A commercial or Industrial wind energy system shall comply with the permit application requirements set forth in Section 10-34-2(G) (1) through (8), Permit Applications, and provide information specified in subsections (G)(1) through (16), Conditional Use Permit, of this section.
- G. Conditional Use Permit. Following the provisions of Chapter 10-5-14, Honeyville City Code, additional or more thorough consideration shall be given to the following:
 1. Project rationale (time frame, project life, development phases, likely markets for the generated energy, and possible future expansions);
 2. Siting considerations (avoid areas/locations with a large potential for biological conflict such as wilderness study areas, areas of critical environmental concern, city, county and state parks, historic trails, special management areas or important wildlife habitat; avoid visual corridors that are essential view sheds or scenic areas designated by the city and/or county after analyzing the applicant's wind energy system and considering public hearing comments; avoid areas of erodible slopes and soils, where concerns for water quality and high storm runoff potential have been identified, and known sensitive historical, cultural or archaeological resources and public safety concerns mentioned herein can best be avoided);
 3. Site and development plans (drawn to scale; locating all structures existing and proposed, setbacks, access, project boundary, existing structures outside project boundary within one-half mile of project boundary, existing utilities/pipelines/transmission lines, proposed utility lines/structures, existing topography; map of proposed drainage/grading and natural vegetation removal plan; map of wind characteristics and dominant wind direction; map of floodplains or wetlands, and other items identified by Honeyville City Engineer);
 4. Economic analysis (economic cost/benefit analysis describing generated property taxes, sales taxes, other taxes, construction dollars spent locally, estimated construction jobs and construction payroll, estimated permanent jobs and continuing payroll, and costs associated with impact on roads

- and other city infrastructure in the area;
- 5. Visual impacts, appearance and scenic view sheds (visual simulations providing vantage points considering a three hundred sixty degree view of the project site);
- 6. Wildlife habitat areas and migration patterns, including avian impacts (including endangered or threatened species, on the site and in a biologically significant area surrounding the site);
- 7. Environmental analysis in the absence of required state or federal agency review (impact analysis on historic, cultural and archaeological resources, soil erosion, flora in the project area, water quality and water supply in the area, dust from project activities, and cumulative impacts of other adjacent wind energy projects);
- 8. Solid waste or hazardous waste generated by the project;
- 9. Lighting and FAA height restrictions, including airport overlay proximity (air traffic safety);
- 10. Transportation plan for construction and operation phases (showing proposed project service road ingress and egress access onto the state, county or city road system, layout of wind energy system service road system and degree of upgrade plan to new and existing roads, anticipated volume and route for traffic, including oversized and heavy equipment needed for construction, maintenance and repairs, methodology of repairs and maintenance of roads and bridges used for the project, and related public pedestrian and vehicular access and associated fencing);
- 11. Public safety (potential hazards to adjacent properties, public roadways, communities, aviation, etc., that may be created);
- 12. Noise limitations (noise levels at the property line of the project boundary);
- 13. Shadow flicker and strobe effects (an evaluation of where and when any shadow flicker or strobing effects may impact property within the project area and any adjacent properties potentially affected);
- 14. Telecommunications interference (electromagnetic fields and communications interference generated by the project);
- 15. Life of the project and final reclamation (describing the decommissioning and final land reclamation plan after anticipated useful life or abandonment or termination of the project, including evidence of an agreement with the property owner that ensures proper final reclamation of the wind energy project);
- 16. Others, as applicable.

Adopted by Ord. 2010-01 on 5/12/2010

10-34-4 REQUIREMENTS OF WIND MONITORING TOWER AND EQUIPMENT (MET TOWER)

- A. Permissible Locations. A wind monitoring tower may be located as described in Sections 10-10-8, 10-12-8 or 10-13-8, Table of Uses, Honeyville City Code.
- B. Permit Application. A temporary wind monitoring tower with associated equipment may be permitted and in accordance with Section 10-34-2(C), and (F)(1) through (9) of this chapter, subject to the following:
 - 1. Owner consent: evidence that the applicant is the owner of the property or has written permission of the owner(s) to make such application;
 - 2. Use duration: permitted for a maximum of three to five years as specified in the conditional use permit and as determined by evidence given at the time of application regarding known wind source data;
 - 3. Height: the height of the facility will be established in the conditional use permit, unless it is located in an A-5, A-20, Commercial or Industrial Zones, wherein the met tower may not exceed one hundred feet total height;
 - 4. Setbacks: the setbacks for a met tower from the closest property lines, public road right-of-way and aboveground communication or electrical line shall be at least 1.5 times total height. The met tower shall also maintain a clear fall zone from any occupiable building/structure and tanks containing combustible/flammable liquids, of 1.5 times the total height;
 - 5. Tower security: any climbing apparatus must be located at least twelve feet above the ground, and the tower must be designed to prevent climbing within the first twelve feet. The tower is recommended to be enclosed with an appropriate fence with OHV or livestock use in the area; and
 - 6. Other: as determined by city staff and/or planning commission and/or City Council.

Adopted by Ord. 2010-01 on 5/12/2010

10-34-5 NONUSE

- A. Any small wind energy system or commercial wind energy system which complies with the terms of this chapter which is not used for two years, excluding active repairs, shall be removed within the following six months. Failure to remove the system shall be deemed a violation of this chapter.
- B. Any small wind energy system or commercial wind energy system which is nonconforming and which is not operable for one year shall be removed within the following six months. Failure to remove the system shall be deemed a violation of this chapter.

Adopted by Ord. 2010-01 on 5/12/2010

10-34-6 APPLICABILITY

The requirements of this chapter shall apply to all small wind energy systems and commercial wind energy systems proposed after the effective date of the ordinance codified in this chapter. Wind energy systems for which a required permit has been properly issued prior to the effective date of the ordinance codified in this chapter shall not be required to meet the requirements of this chapter; provided, however, that any such system shall be installed and functioning within twenty-four months of the date of the permit. Any system that has been installed but not used for two consecutive years may not be subsequently used without meeting the requirements of this chapter. No preexisting system shall be altered in any manner that would increase the degree of nonconformity with the requirements of this chapter and no alterations shall be made to a nonconforming preexisting system during its life which exceeds fifty percent of its fair market value. If such system is destroyed or damaged to the extent of more than fifty percent of its fair market value at the time of destruction or damage, it shall not be reconstructed except in conformity with this chapter.

Adopted by Ord. 2010-01 on 5/12/2010

Title 11 - TEMPORARY ORDINANCES

Chapter 1: APPROVAL OF NEW SUBDIVISIONS

Chapter 1: APPROVAL OF NEW SUBDIVISIONS

- A. Pursuant to the foregoing findings, after the effective date of this ordinance no application shall be accepted or approved for a subdivision concept plan, Preliminary plan, or final plat, under Title 10, Chapter 5 of the Honeyville City Code, for any property located in an Agricultural ("A") or Rural Residential ("RR") zone except as set forth in Paragraph 2 below.
- B. A complete application for a subdivision concept plan, preliminary plan, or final plat application which was filed with the City prior to the effective date of this ordinance shall not be subject to this ordinance.

Adopted by Ord. 2007-01 on 1/10/2007