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## **TITLE 1**

### CHAPTER 1

#### WOODLAND HILLS CITY CODE

For statute authority, see UCA § 10-3-707.

This chapter 1 contains standard provisions for general use of the entire code. Note that we have stated in section 1-1-1 that your new code will be termed the *WOODLAND HILLS CITY CODE*. If the city would like the code to be referred to otherwise, please indicate that preference.

Response: Leave as is \_\_ **X** \_\_; Change as follows:

#### SECTION:

- 1-1-1: Title
- 1-1-2: Acceptance
- 1-1-3: Amendments
- 1-1-4: Alterations

#### 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 the city of Woodland Hills. This city code of ordinances shall be known and cited as the *WOODLAND HILLS 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. (1977 Code § 1-001; amd. 2015 Code)

#### 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. (2015 Code)

#### 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. (2015 Code)

#### 1-1-4: 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. (2015 Code)

## CHAPTER 2

### SAVING CLAUSE

This chapter 2 is another standard provision included for the general use of the new code. Does the city wish to make any changes?

Response: Leave as is \_\_\_ **X** \_\_\_ or Change as follows:

#### SECTION:

- 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. (2015 Code)

#### 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. (2015 Code)

#### 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. (2015 Code)

#### 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. (2015 Code)

### CHAPTER 3

#### DEFINITIONS

As was done with chapters 1 and 2 of this title, these provisions are also included as part of the codification process, the "(2015 Code)" cite indicating this fact.

#### SECTION:

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

#### 1-3-1: CONSTRUCTION OF WORDS:

A. Liberal Construction: All general provisions, terms, phrases and expressions contained in this code shall be liberally construed in order that the true intent and meaning of the mayor and city council may be fully carried out.

B. Minimum Requirements: In the interpretation and application of any provision of this code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety and general welfare.

C. Computation Of Time: Whenever a notice is required to be given or an act to be done in a certain length of time before any proceeding shall be had,

the day on which such notice is given or such act is done shall not be counted in computing the time but the day on which such proceeding is to be held shall be counted.

D. Delegation Of Authority: Whenever a provision appears requiring the head of a department or some other city officer to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.

E. Gender: A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

F. Joint Authority: All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

G. May/Shall: The word "may" is permissive; the word "shall" is mandatory.

H. Nontechnical And Technical Words: Words and phrases shall be construed according to the common and approved usage 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.

I. Number: A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

J. Officers And Employees: Whenever any officer or employee is referred by title, such reference shall be construed as if followed by the words "of the city of Woodland Hills".

K. Tense: Words used in the past or present tense include the future as well as the past and present.

L. Ordinance: 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 ordinances is not meant to amend passage and effective dates of such original ordinances. (2015 Code)

#### 1-3-2: GENERAL DEFINITIONS:

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

!DEF! CITY: The city of Woodland Hills, Utah.

CITY COUNCIL: The city council of the city of Woodland Hills, Utah.

CODE: The city code of the city of Woodland Hills, Utah.

COUNTY: The county of Utah, state of Utah.

FEE: A sum of money charged by the city for the carrying on of a business, profession or occupation or other activity subject to city regulation, authorization or limitation.

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.

STATE: The state of Utah.

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. (2015 Code) !DEFEND!

#### 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 section hereof, nor unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted. (2015 Code)

#### CHAPTER 4

##### GENERAL PENALTY

**Sterling has created this chapter according to ordinance 2005-07 and state statutes. Please be sure these provisions are those the city desires to use and enforce. Also, please be sure to provide specific instructions as to any amendments or omissions.**

**Response: The city desires to use these statutes as written**

SECTION:

1-4-1: Sentencing

1-4-2: Offenses Designated; Classified

1-4-1: SENTENCING:

A. Penalty For Violation Of Ordinance<sup>1</sup>:

1. Criminal: The city council may impose a minimum criminal penalty for the violation of any municipal 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.

2. Civil:

a. Except as provided in subsection A2b of this section, the city council may prescribe a minimum civil penalty for the violation of any municipal ordinance by a fine not to exceed the maximum class B misdemeanor fine under Utah Code Annotated section 76-3-301.

b. A municipality may not impose a civil penalty and adjudication for the violation of a municipal moving traffic ordinance.

B. Term Of Imprisonment For Misdemeanors<sup>2</sup>: 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<sup>3</sup>:

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<sup>4</sup>: A person convicted of an offense may be sentenced to pay a fine, not exceeding:

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1. UCA § 10-3-703.

2. UCA § 76-3-204.

3. UCA § 76-3-205.

4. UCA § 76-3-301.

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<sup>5</sup>: 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. (Ord. 2005-07, 5-11-2005; amd. 2015 Code)

The above section 1-4-1 sets out the fines, sentences and procedures applicable to the city's legislation. This section 1-4-1 could be referenced and specific penalty amounts omitted from the city's ordinances appearing throughout this new code, allowing for consistency. When state statute is changed, then only one section, instead of numerous sections, of the code would need to be amended. Comments will be inserted throughout this code workbook in each instance where this section 1-4-1 could be referenced. Does the city agree with this recommendation?

Response: ☒ Yes; ☐ No

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<sup>6</sup>:

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5. UCA § 76-3-302.

6. UCA § 76-3-104.



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. (Ord. 2005-07, 5-11-2005; amd. 2015 Code)

## CHAPTER 5

### QUALIFICATIONS AND DUTIES OF OFFICERS

#### SECTION:

1-5--1: Eligibility For Office

1-5--2: Term Of Office For Mayor And Council Members

1-5--3: Appointive Officers

1-5--4: Term Of Appointive Officers

1-5--5: Removal From City; Residence Requirement

1-5--6: Delivery Of Records

1-5--7: Vacancies

1-5--8: Oath Of Office

1-5--9: Bonds

1-5-10: Salaries

1-5-11: Inspection Of Records

1-5-12: Expenditures And Encumbrances

1-5-13: Ethics Act

1-5-14: Employment Of Family Members Prohibited

1-5-15: Unfair Employment Practices Prohibited

1-5-16: Occupational Safety And Health Act

1-5-17: Additional Powers And Duties

1-5-1: ELIGIBILITY FOR OFFICE:

For statute authority, see UCA § 10-3-301.

Any person elected to a city office must be a resident and registered voter of the city. (Ord. 2005-02, 1-12-2005)

1-5-2: TERM OF OFFICE FOR MAYOR AND COUNCIL MEMBERS:

For statute authority, see UCA § 10-3-201.

The mayor and council members shall enter upon their duties at twelve o'clock (12:00) noon on the first Monday in January next succeeding their election. The mayor and each council member shall continue in office for a term of four (4) years, and in each case until a successor is duly elected and qualified, unless otherwise provided by law. (Ord. 2005-02, 1-12-2005)

1-5-3: APPOINTIVE OFFICERS:

For statute authority, see UCA §§ 10-3-916, 10-3-918.

On or before the first Monday in February following a municipal 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. If the city has established a police department, the mayor shall also appoint a **city marshal**. (Ord. 2005-02, 1-12-2005)

Is the reference of "city marshal" correct, as opposed to "chief of police"?

Response: Yes, leave as is \_\_\_\_\_ , or change as follows: **Should be chief of police**

1-5-4: TERM OF APPOINTIVE OFFICERS:

Except as otherwise may be provided by law, the term of office of the

city recorder and city treasurer shall be until the election next following their appointment and until their respective successors are chosen and qualified, except that they may be sooner removed by the mayor with the concurrence of a majority of the members of the city council, or by the city council with the concurrence of the mayor. (Ord. 2005-02, 1-12-2005)

1-5-5: REMOVAL FROM CITY; RESIDENCE REQUIREMENT:

**For statute authority, see UCA § 10-3-301.**

A. Elected Officers: Each elected officer shall maintain residence within the boundaries of the city during the officer's term of office. If any elected officer establishes a principal place of residence outside the city during the officer's term of office, the office is automatically vacant. If an elected officer is absent from the city any time during the officer's term of office for a continuous period of more than sixty (60) days without the consent of the city council, the office is automatically vacant.

B. Appointed Officers: Each appointed officer listed in section 1-5-3 of this chapter shall, at any time during his term of office, maintain residence within the boundaries of the city. If any such appointed officer establishes a principal place of residence outside the city during the officer's term of office, the office is automatically vacant. Provided, however, the mayor may, with the consent of the city council, exempt any person appointed to such office the residence requirement. Such exemption shall be only for the current term of the officer, but the exemption may be granted for any subsequent term. (Ord. 2005-02, 1-12-2005)

1-5-6: DELIVERY OF RECORDS:

Every officer and employee of the city, upon expiration of his term for any cause whatsoever, shall, within five (5) days after notification and request, deliver to his successor all books and records which may be the property of the city. (Ord. 2005-02, 1-12-2005)

1-5-7: VACANCIES:

**For statute authority, see UCA §§ 10-3-302, 10-8-79, 20A-1-510.**

Utah Code Annotated section 20A-1-510 was updated in 2012. As such, the city legislation is in conflict with said statute. In order to prevent conflicting legislation with state statute, it is Sterling's suggestion that the city amend subsection A of this section to read:

*A. Elected Officials: Mayoral or council vacancies shall be filled as provided in Utah Code Annotated section 20A-1-510.*

This way, the city officials will be guided by state statute when filling vacancies of elected officials. Does the city agree with this recommendation?

Response: ☒ Yes; ☐ No (please provide appropriate amendments)

A. Elected Officials:

1. a. Except as otherwise provided in subsection A2 of this section, if any vacancy occurs in an elected office, the city council shall appoint a registered voter in the city who meets the qualification for office to fill the unexpired term of the office vacated until the January following the next municipal election.

b. Before acting to fill the vacancy, the city council shall:

(1) Give public notice of the vacancy at least two (2) weeks before the city council acts to fill the vacancy; and

(2) Identify in the notice the date, time and place of the meeting where the vacancy will be filled; **and the person to whom a person interested in being appointed to fill the vacancy may submit his name for consideration;** and any deadline for submitting it.

If this subsection retained, the above bolded provision is misstated. Please advise.

Response: **Let's write it like this: Identify in the notice the date, time and place of the meeting where the vacancy will be filled and instruction on how the person interested in being appointed to fill the vacancy shall submit his or her name for consideration, including any applicable deadlines.**

c. (1) If, for any reason, the city council does not fill the vacancy within thirty (30) days after the vacancy occurs, the city council shall vote on the names that have been submitted.

(2) The two (2) persons having the highest number of votes of the city council shall appear before the city council and the city council shall vote again.

(3) If neither candidate receives a majority vote of the city council at that time, the vacancy shall be filled by lot in the presence of the city council.

2. a. A vacancy in an elected office shall be filled by an interim appointment followed by an election to fill a two (2) year term if:

(1) The vacancy occurs, or a letter of resignation is received, by the mayor or city council at least fourteen (14) days before the deadline for filing for election in an odd numbered year; and

(2) Two (2) years of the vacated term will remain after the first Monday of January following the next municipal election.

b. In appointing the interim replacement, the city council shall comply with the notice requirements of subsection 1b of this section.

3. A member of the city council may not participate in any part of the process established by this section to fill a vacancy if that member is being considered for appointment to fill the vacancy.

B. City Recorder, Treasurer: If a vacancy shall occur in the office of city recorder or city treasurer, the mayor, by and with the consent of the city council, shall forthwith fill such vacancy by appointment for the unexpired term. (Ord. 2005-02, 1-12-2005)

1-5-8: OATH OF OFFICE:

**For statute authority, see UCA § 10-3-827 - 10-3-829.**

A. All officers of city, whether elected or appointed, shall, before they enter upon the duties of their respective offices, take, subscribe and file the constitutional oath of office.

B. No official act of any officer shall be invalid for the reason that the officer failed to take the oath of office. (Ord. 2005-02, 1-12-2005)

1-5-9: BONDS:

**For statute authority, see UCA § 10-3-819 - 10-3-825.**

Every officer of city, whether elected or appointed, shall, before entering upon the duties of his office, execute a bond with good and sufficient sureties, payable to the city, in such penal sum as may be directed by resolution of the city council, conditioned upon the faithful performance of the duties of his office and the payments of all money received by such officer according to the law and the ordinances of the city. The city treasurer's bond shall be fixed at a sum not less than two thousand five hundred dollars (\$2,500.00), or such larger amount as may be determined by the state money management council. The bonds of council members shall be approved by the mayor. The bonds of all other officers shall be approved by the city council. The premium charged by a corporate surety for any official bond shall be paid by the city. (Ord. 2005-02, 1-12-2005)

1-5-10: SALARIES:

For statute authority, see UCA § 10-3-818.

A. The elective and appointive officers of the city shall receive such compensation or stipend for their services as the city council may fix by ~~resolution~~ ordinance.

In accordance with the above referenced statute, suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes ☒ No ☐, or change as follows:

B. Upon its own motion, the city council may review or consider the compensation of any officer or officers of the city or a salary schedule applicable to any officer or officers of the city for the purpose of determining whether or not it should be adopted, changed or amended. If the city decides to adopt, change or amend the compensation or compensation schedules, the procedure shall be as provided in Utah Code Annotated section 10-3-818.

In accordance with the above referenced statute, suggest inclusion of underlined as the statute requires a public hearing and notice. Agree?

Response: Yes \_\_ **X** \_\_, No \_\_\_\_, or change as follows:

C. The compensation of all city officers shall be paid at least monthly out of the city treasury. (Ord. 2005-02, 1-12-2005)

1-5-11: INSPECTION OF RECORDS:

All records, books, papers and documents belonging to any office of the city shall be open at any time to inspection by the mayor or any member of the city council. (Ord. 2005-02, 1-12-2005)

1-5-12: EXPENDITURES AND ENCUMBRANCES:

For statute authority, see UCA § 10-6-122.

A. Approval Of Expenditures: No purchase shall be made and no indebtedness incurred by any officer or employee of the city without approval and order of the ~~financial~~ale director or of some other person duly authorized and commissioned by the city council to act as purchasing agent for the city.

Suggest omission of ~~strikeout~~ text and inclusion of underlined as per section 1-7-6 of this title. Agree?

Response: Yes \_\_ **X** \_\_, No \_\_\_\_, or change as follows:

B. Budget Limits: No city officer shall make or incur expenditures or encumbrances in excess of total appropriations for any department in the budget as adopted or as subsequently amended. Any obligation that is so contracted by any such officer shall be and become the obligation of the officer himself and shall not be or become valid or enforceable against the city.

C. Emergency Purchasing: In the event that the city council determines that an emergency exists, such as widespread damage from fire, flood or earthquake, or that the said emergency necessitates the expenditure of money in excess of the budget of the general fund, the city council may make such expenditures and incur such deficits in said fund as may

be reasonably necessary to meet said emergency. (Ord. 2005-02, 1-12-2005)

1-5-13: ETHICS ACT:

All officers and employees of the city shall adhere to the standards of conduct as set forth in the Utah public officers' and employees' ethics act, Utah Code Annotated title 67, chapter 16, as amended. (Ord. 2005-02, 1-12-2005)

1-5-14: EMPLOYMENT OF FAMILY MEMBERS PROHIBITED:

No person shall be employed by the city in violation of the provisions of Utah Code Annotated title 52, chapter 3, as amended, which prohibits the employment of relatives by any person holding any position, the compensation for which is paid by city funds. Nothing in this section shall be construed to prohibit the city from contracting for goods or services from an entity which employs a relative of a city officer. (Ord. 2005-02, 1-12-2005)

1-5-15: UNFAIR EMPLOYMENT PRACTICES PROHIBITED:

The city shall not engage in any discriminatory or unfair employment practice in violation of the Utah antidiscrimination act, Utah Code Annotated title 34A, chapter ~~354~~, as amended. (Ord. 2005-02, 1-12-2005)

Suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes ☒ No ☐, or change as follows:

1-5-16: OCCUPATIONAL SAFETY AND HEALTH ACT:

The city and its employees shall be subject to the provisions of the Utah occupational safety and health act ~~of 1973~~, Utah Code Annotated title 354, chapter ~~96~~, as amended, but only to the extent that the act is, by the terms thereof, specifically applicable to the city. (Ord. 2005-02, 1-12-2005)

Suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes ☒ No ☐, or change as follows:



1-5-17: ADDITIONAL POWERS AND DUTIES:

The duties, powers and privileges of all officers in any way connected with the city not defined in this code shall be defined from time to time by appropriate ordinance or resolution of the city council. (Ord. 2005-02, 1-12-2005)

CHAPTER 6

MAYOR AND CITY COUNCIL

ARTICLE A. MAYOR

**For statute authority, see UCA § 10-3b-104.**

**We point out that this article differs slightly from that of the above referenced statute, which may have been the intent of the city when adopting this legislation. In any event, please be sure this legislation reads as desired by the city officials, noting any necessary amendments and/or omissions.**

**The city would like 1-6A to follow the statute referenced above.**

SECTION:

- 1-6A-1: Chief Executive Officer
- 1-6A-2: Presiding Officer Of City Council
- 1-6A-3: Powers And Duties
- 1-6A-4: Appointments By Mayor
- 1-6A-5: Budget Officer

1-6A-1: CHIEF EXECUTIVE OFFICER:

The mayor shall be the chief executive of city, and the administrative powers, authority and duties of the city are vested in the mayor. (Ord. 2005-02, 1-12-2005)

1-6A-2: PRESIDING OFFICER OF CITY COUNCIL:

The mayor shall be the chairperson and preside at the meetings of the city council. In the absence of the mayor, or because of the mayor's inability or refusal to act, the city council may elect a member of the city council to preside over the meeting as mayor pro tem, who shall have all of the powers and duties of the mayor during the mayor's absence or disability. The election of a mayor pro tem shall be entered in the minutes of the meeting of the city council. (Ord. 2005-02, 1-12-2005)

#### 1-6A-3: POWERS AND DUTIES:

The mayor shall have the following powers and duties:

- A. Shall be the chief executive officer to whom all employees of the city shall report;
- B. Shall keep the peace and enforce the laws of the city;
- C. Shall remit fines and forfeitures and may release any person imprisoned for violation of any city ordinance;
- D. Shall report such remittance or release to the city council at its next regular session;
- E. Shall perform all duties prescribed by law, resolution or ordinance;
- F. Shall ensure that all laws and ordinances and resolutions are faithfully executed and observed;
- G. May, at any reasonable time, inspect and examine the books, papers, records or documents of the city, or of any officer, employee or agency of the city;
- H. Shall report to the city council the condition of the city and recommend for council consideration any measures as deemed to be in the best interests of the city; and
- I. Shall, when necessary, call on the residents of the city over the age of twenty one (21) years to assist in enforcing the laws of the state and the ordinances of the city. (Ord. 2005-02, 1-12-2005)

#### 1-6A-4: APPOINTMENTS BY MAYOR:

Except as may be otherwise specifically provided by law, the mayor, with the advice and consent of the city council, may appoint all officers and agents of the city as may be provided by law or ordinance, and in

like manner may fill all vacancies occurring in the same. (Ord. 2005-02, 1-12-2005)

1-6A-5: BUDGET OFFICER:

The mayor shall be the budget officer of the city, or he may appoint, with the approval of the city council, some other person to exercise the function of the budget officer. The budget officer shall perform all duties which are prescribed by this code and by the Utah uniform municipal fiscal procedures act. (Ord. 2005-02, 1-12-2005)

CHAPTER 6

MAYOR AND CITY COUNCIL

ARTICLE B. CITY COUNCIL

For statute authority, see UCA §§ 10-3b-105, 10-3b-303 et seq.

With regard to ordinance 2012-06, which provides the rules of order and procedure governing meetings of the city council, said ordinance duplicates the provisions of state statute. It appears the city did not intend by this ordinance to repeal the specific legislation passed by the city council.

The affected sections and their location are outlined below:

Ord. 2012-06	Ord. 2005-02	This Article	Subject
10-3-502	2-4-102	1-6B-2A	Regular and special council meetings
10-3-504	2-4-103	1-6B-2B	Quorum defined
10-3-505	2-4-103	1-6B-2B	Compelling attendance at meetings of legislation body
10-3-506	2-4-104	1-6B-2C	How vote taken
10-3-507	2-4-104	1-6B-2C	Minimum vote required
10-3-508	2-4-105	1-6B-2D	Reconsideration
10-3-601	2-4-106	1-6B-2E	Business conducted only in open meeting

10-3-607	2-4-107	1-6B-2F	Rules of conduct for members of governing body
10-3-608	2-4-107	1-6B-2F	Rules of conduct for public

!SETLRM!!SETFNT!!SETTAB!

The city will need to indicate if it desires to repeal any of their current legislation with ordinance 2012-06 or if said ordinance was intended to be considered a "special" ordinance (more of a policy than legislation). Since the city is governed by the statutes, the adoption of this ordinance was not necessary. In any event, please specify any desired amendments to inclusions to this article.

Response: Leave as is \_\_\_\_\_ (list ordinance 2012-06 as a "special"), or change as follows: **It has been decided to modify the language in Section 1-6B-2, which has already been done as shown below.**

#### SECTION:

- 1-6B-1: Governing Body
- 1-6B-2: Meetings; Procedures And Conduct
- 1-6B-3: Electronic Meetings
- 1-6B-4: Written Minutes
- 1-6B-5: Ordinances
- 1-6B-6: Powers And Duties

#### 1-6B-1: GOVERNING BODY:

The city council shall consist of the mayor and five (5) council members, and shall constitute the governing body of the city. (Ord. 2006-05, 3-14-2006)

#### 1-6B-2: MEETINGS; PROCEDURES AND CONDUCT:

A. Regular And Special Meetings: The city council shall hold regular meetings on the second and fourth weeks of each month, excepting July, November and December, when regular meetings will be held on the second weeks only. Said regular meeting shall be held at such time and place established from time to time by ordinance of the city council. 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 council. The order shall be entered in the minutes of the 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 member of the governing body at any specially called meeting constitutes a waiver of the notice required in this subsection.

For statute authority, see UCA § 10-3-502.

In accordance with the above referenced statute and what appears to be the procedure of the city, suggest omission of ~~strikeout~~ and inclusion of underlined. Agree?

Response:   X   Yes;        No

B. Quorum: No action of the city council shall be official nor of any effect except when a quorum of the members are present. Fewer than a quorum may adjourn from time to time. Three (3) members of the city council are necessary to constitute a quorum. The city council shall have the power to compel the attendance of its own members and provide such penalties as it deems necessary for the failure to comply therewith. (Ord. 2005-02, 1-12-2005)

For statute authority, see UCA §§ 10-3-504, 10-3-505.

C. Voting:

1. The minimum number of affirmative votes required to pass any ordinance, resolution or to take any other action by the city council, unless otherwise prescribed by law, shall be a majority of the members present but shall never be less than three (3) affirmative votes.

2. Any ordinance, resolution or motion of the 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 those present.

3. A majority of the members of the city council, regardless of number, may fill any vacancy in the council.

4. 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 governing body, by a yes or no vote, and shall be recorded. Every resolution or ordinance shall be in writing before the vote is taken.

5. The mayor shall not vote on any matter except in case of a tie vote of the council or in the appointment or dismissal of a city manager ~~under Utah Code Annotated section 10-3-830.~~  
(Ord. 2006-05, 3-14-2006)

For statute authority, see UCA §§ 10-3-506, 10-3-507, 10-3b-302.

Suggest omission of strikeout text as such statute is now repealed. Agree?

Response: ☒ Yes; ☐ No

D. 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 the members present at the meeting when the action was originally approved.

For statute authority, see UCA § 10-3-508.

E. Open Meetings: Except as otherwise provided by law, all meetings of the city council shall be open and public. No ordinance, resolution, rule, regulation, contract or other action of the city council shall have any effect unless passed or approved at a properly held open and public meeting.

For statute authority, see UCA § 10-3-601.

F. Rules Of Procedure: Except as otherwise provided by law, the city council may establish its own rules of procedure for the proper conduct of its meetings. The city council may fine or expel any person for disorderly conduct on a two-thirds ( $\frac{2}{3}$ ) vote of the members of the city

council. This subsection, or any action taken by the city council pursuant hereto, shall not preclude prosecution under any other provision of law.

For statute authority, see UCA § 10-3-606.

G. 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; provided, however, that the council may call a special meeting to consider such final action.

For statute authority, see UCA § 10-3-609.

H. Record Of Proceedings: The city council shall keep a journal of its proceedings. The books, records, accounts and documents of the city shall be kept at the office of the recorder, and approved copies shall be open and available for public inspection and copying during business hours. The council may by resolution establish reasonable charges for providing copies of its public records to individuals, except when by law the city must provide the records to the public without cost. (Ord. 2005-02, 1-12-2005)

For statute authority, see UCA § 10-3-603.

1-6B-3: ELECTRONIC MEETINGS:

For statute authority, see UCA § 52-4-207.

A. Short Title: This section is known as the *ELECTRONIC MEETINGS ORDINANCE*.

B. Definitions: As used in this section:

!DEF! ANCHOR LOCATION: The Woodland Hills city office, or such other physical location where a public meeting of a public body of the city is held, as provided by law or ordinance.

ELECTRONIC MEETING: A formal meeting of a public body of the city, where one or more members of the public body participate in the meeting from a remote location by means of telephone, internet, television or other communication means which provides real time communication.

PRESIDING OFFICER: The individual who presides at a meeting at the anchor location.

PUBLIC BODY: The city council, planning commission and each other board or committee of the city which is defined by state law as a public body.

REAL TIME: Instantaneous communication, without undue delays in hearing or seeing what is being said or done at the anchor location or by a remote participant.

REMOTE LOCATION: Any place other than the anchor location, where a remote participant is located while participating in an electronic meeting.

REMOTE PARTICIPANT: An individual who is an elected, employed or appointed member of a public body who participates in a meeting by means of telephone, internet, television or other communication means which provides real time communication. !DEFEND!

C. Electronic Meetings Authorized: Each public body of the city, except for a board of equalization, is hereby authorized to conduct an electronic meeting. Provided, however, a public body may conduct an electronic meeting only with the consent of the presiding officer.

D. Arrangement For And Conduct Of Electronic Meetings:

1. Arrangement for and conduct of each electronic meeting shall be done only in compliance with the provisions of this section.

2. Any member of a public body who desires to be a remote participant shall notify the presiding officer. Permission to participate remotely may not be reasonably withheld.

3. Except as provided in subsection G2 of this section, each remote participant shall contact the presiding officer fifteen (15) minutes before the scheduled starting time of the meeting to ensure that the communication equipment to be used is in proper working order.

4. The meeting shall be conducted at the anchor location by the presiding officer. If the presiding officer is not present at the anchor location, the public body shall select from its membership present at the anchor



location a presiding officer for the sole purpose of conducting the meeting.

5. The presiding officer shall require that all drawings, plats and other exhibits and all written material not in possession of a remote participant be adequately described for the benefit of the remote participant.

6. The minutes of the meeting shall show the name and capacity of each remote participant. If a remote participant participates in only a part of the meeting, the minutes shall show the duration of that person's participation.

7. A remote participant who would be entitled to vote at the meeting if present at the anchor location shall be entitled to vote from the remote location. All actions of the public body shall be taken by roll call vote.

8. If communication with a remote participant fails for any reason, the quorum of the public body may continue to hold and conduct the meeting without participation of the remote participant. If the quality of the communication with a remote participant is not sufficient to have or continue his participation at the meeting, the presiding officer or a majority of the members of the public body present at the anchor location may terminate participation of the remote participant.

9. The method of communication used shall be such that each remote participant and each member present at the anchor location shall have real time communication with all members who participate in the meeting.

10. Remote participants not at the anchor location count towards the quorum.

#### E. Notices:

1. The public body shall give public notice of the meeting as required by law and post written notice at the anchor location. In addition to all other information that is required in the notice, the notice shall state that one or more members of the public body may participate from a remote location.

2. The notice shall specify the anchor location of the meeting which shall be at the location where the public body would normally meet if it were not holding an electronic meeting.

3. The public body shall give notice to each member of the public body at least twenty four (24) hours before the meeting, including a

description of how each remote participant will be connected to the electronic meeting.

F. Public Participation At Electronic Meeting:

1. Public participation at an electronic meeting shall be only at the anchor location.
2. The public body shall provide space and facilities at the anchor location so that interested persons and the public may attend and monitor the open portions of the meeting.
3. If comments from the public will be accepted during the electronic meeting, the public body shall provide space and facilities at the anchor location so that interested persons and the public may attend, monitor and participate in the open portions of the meeting.

G. Costs:

1. Unless the public body, with the approval of the city council, elects to pay the costs of communication with a remote participant, the cost shall be borne by the remote participant.
2. If costs of communication with a remote participant are being paid by the public body, the presiding officer may make arrangements to initiate contact with each remote participant. (Ord. 2010-05, 7-8-2010)

1-6B-4: WRITTEN MINUTES:

For statute authority, see UCA § 52-4-101 et seq.

A. Definitions: For purposes of this section, the following definitions shall apply so long as they are consistent with the definitions of the same terms found in the Utah open and public meetings act. If a term is defined differently in the Utah open and public meetings act, the definition found in that act shall apply:

!DEF! CONVENING: The calling of a meeting of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.

MEETING: 1. The convening of a public body, with a quorum present, including a workshop or an executive session, whether the meeting is

held in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon, a matter over which the public body has jurisdiction or advisory power.

2. "Meeting" does not mean:

- a. A chance meeting;
- b. A social meeting; or
- c. The convening of a public body that has both legislative and executive responsibilities where no public funds are appropriated for expenditure during the time the public body is convened; and
  - (1) The public body is convened solely for the discussion or implementation of administrative or operational matters for which no formal action by the public body is required; or
  - (2) The public body is convened solely for the discussion or implementation of administrative or operational matters that would not come before the public body for discussion or action.

MEETING CLERK: The city recorder or town clerk (or their acting deputies) for a city or town council, or shall mean the person assigned by a public body, other than a city or town council, to record and to take the written minutes of a meeting of a public body of this municipality.

MINUTES OF A MEETING: A written record of the meeting that shall include:

- 1. The date, time and place of the meeting;
- 2. The names of members present and absent;
- 3. The substance of all matters proposed, discussed or decided by the public body which may include a summary of comments made by members of the public body;
- 4. A record of each vote taken by the public body;
- 5. The name of each person who:
  - a. Is not a member of the public body; and

- b. After being recognized by the presiding member of the public body, provided testimony or comments to the public body;
6. The substance, in brief, of the testimony or comments provided by the public under subsection A5 of this definition; and
7. Any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes or recording.

PROPOSED MINUTES: The written minutes prepared by the meeting clerk that have been given to the members of a public body for their review and approval.

PUBLIC BODY: Any administrative, advisory, executive or legislative body of this municipality that: !DEFEND!

1. Is created by the Utah constitution, statute, rule, ordinance or resolution;
2. Consists of two (2) or more persons;
3. Expends, disburses or is supported in whole or in part by tax revenue; and
4. Is vested with the authority to make decisions regarding the public's business.

B. Policy For Approval Of Minutes: The following shall be the policy and procedure for the approval of minutes for this municipality:

1. Written minutes shall be taken for all public meetings of any public body of this municipality. The minutes of all public meetings of any public body of this municipality shall be recorded and taken down by the meeting clerk during the course of any public meeting of the public body.
2. Within fifteen (15) working days from the end of the meeting, the meeting clerk shall prepare proposed minutes for the meeting and give a copy of the proposed minutes to each member of the public body for his or her review and comments.
3. Once the proposed minutes have been given to the members of the public body, the meeting clerk shall immediately make available to the public the proposed written minutes, which shall be clearly identified as "awaiting formal approval" or "unapproved", or with some other

appropriate notice that the proposed minutes are subject to change until formally approved and they shall become a public document available to any member of the public who requests to read or copy the proposed minutes.

4. The public body shall consider the proposed minutes for approval at the first meeting of the public body that immediately follows the meeting clerk giving the proposed minutes to the members of the public body. The members of the public body shall either approve the proposed written minutes as presented, or vote to correct and amend the proposed written minutes, and then approve the corrected and amended written minutes at that meeting.

5. If the public body fails to consider the proposed minutes, or does not take any action to approve the proposed minutes at the first public meeting held by the public body immediately following the public body's receipt of the proposed minutes from the meeting clerk, the proposed minutes shall be deemed to have been approved by the public body and will stand as proposed.

6. Once the proposed minutes have either been approved by the public body, or have been deemed to have been approved by the inaction of the public body, they shall become the official record of the proceedings of the public body and shall be signed by the clerk of the meeting and shall be retained in the official records of this municipality and shall be a public document available for the inspection and copying by members of the public as appropriate under state law. (Ord. 2012-05, 9-11-2012)

#### 1-6B-5: ORDINANCES:

**For statute authority, see UCA § 10-3-702.**

The city council may pass all ordinances and rules, and make all regulations, not repugnant to law, necessary for carrying into effect or discharging all powers and duties conferred by law, and such as are necessary and proper to provide for the safety and preserve the health, and promote the prosperity, improve the welfare, morals, peace and good order, comfort and convenience of the city and the inhabitants thereof, and for the protection of property therein. (Ord. 2005-02, 1-12-2005)

#### 1-6B-6: POWERS AND DUTIES:

A. Elections: The city council shall appoint judges of election, designate the places of voting, publicly canvass the results and issue

certificates of election to each person elected.

B. Reports Of Officers: The city council may require from every officer of the city at any time a report in detail of all transactions in his office or any matters connected therewith.

C. Consideration Of Claims: It shall be the duty of the city council to carefully examine all claims presented against the city.

D. Audit Of Accounts: It shall be the duty of the city council to annually have made, by or under the immediate direction and supervision of a competent accountant not in the employ of the city, a complete audit of the accounts of all officers having the care, management, collection or disbursement of monies belonging to the city or appropriated by law or otherwise acquired for the city's use and benefit. Such audit shall be made in accordance with the uniform classification of accounts as provided by law. Such audit for any fiscal year shall be completed not less than six (6) calendar months after the close of such fiscal year. All audit reports so made shall be filed and preserved by the city council, and copies thereof shall be filed with the state auditor as required by law. Copies of such audit shall be open to inspection by any interested person wherever filed.

For statute authority, see UCA § 10-6-150 et seq.

E. Budget: On or before the dates required by law each year, the city council shall by **resolution** adopt a budget for the following fiscal year.

For statute authority, see UCA § 10-6.

Does the city adopt the budget by resolution as opposed to ordinance?

Response: **by Resolution**

F. Property Tax Levy: **Not later than the second Monday in August of each year**, the city council, at a regular meeting thereof, shall by **resolution** levy taxes on the real and personal property within the city made taxable by law for the various municipal purposes.

For statute authority, see UCA § 10-6-133.

Please refer to the above referenced statute with regard to the specified dates, indicating if a change is desired.

Response: **We would like to change the language to refer to state requirements.**

Also, does the city levy said taxes by resolution as opposed to ordinance?

Response: **By resolution**

G. Special Improvement Districts: The city council shall have the right to make improvements within the city, subject to the conditions established by law regulating such improvements. To defray the cost and expense of such improvements, the city council may levy by ordinance special assessments upon property which may be affected or specially benefited by such improvements.

For statute authority, see UCA § 17B-2a-401 et seq.

1.

H. Interlocal Cooperation: The city council shall have the power by resolution to enter into agreements with other cities, towns, counties or other public agencies of the state to provide for joint or cooperative action pursuant to the provisions of the interlocal cooperation act, Utah Code Annotated title 11, chapter 13, as amended.

I. Other Powers: The city council, as the legislative and governing body of the city, shall have, exercise and discharge all the rights, powers, privileges and authority conferred by the laws of the state upon cities of the fifth class. (Ord. 2005-02, 1-12-2005)

CHAPTER 6

MAYOR AND CITY COUNCIL

ARTICLE C. ELECTIONS

For statute authority, see UCA title 20A.

We question the necessity of including this chapter in that the city is governed by the provisions of state statute. As such, does the city desire to include this article?

Response: \_\_\_\_\_ Yes; ☒ No

SECTION:

- 1-6C--1: Governing Body
- 1-6C--2: Elections
- 1-6C--3: Nominations
- 1-6C--4: Primary Election
- 1-6C--5: Filing Fee
- 1-6C--6: Certificates Preserved Two Years
- 1-6C--7: Posting Of Notice Of Election And Publication
- 1-6C--8: Form Of Ballots
- 1-6C--9: Objections To Nomination Petition
- 1-6C-10: Withdrawal Of Candidacy
- 1-6C-11: Qualifications Of Voters
- 1-6C-12: Election Judges; Voting Places
- 1-6C-13: Canvass Of Return; Certificate Of Election
- 1-6C-14: Preparation For Elections And Conduct Of Elections
- 1-6C-15: Disclosure Of Campaign Finances

1-6C-1: GOVERNING BODY:

The governing body of city shall be a city council composed of a mayor and five (5) council members. (Ord. 2006-05, 3-14-2006)

This section duplicates section 1-6B-1 of this title and therefor, is unnecessary. Agree?

Response: ☒ Yes (omit); \_\_\_\_\_ No

1-6C-2: ELECTIONS:

A. On the Tuesday after the first Monday in November, 2007, and biennially thereafter, an election shall be held to fill all elective city offices vacated by twelve o'clock (12:00) noon on the first Monday



in January following the election. The officers elected shall continue in the office to which they were elected for four (4) years, except in the case of death, resignation, removal or disqualification from office.

B. The officers so elected shall begin their term of office at twelve o'clock (12:00) noon on the first Monday in January following their election.

C. The offices of mayor and two (2) council members shall be filled in the election held in 2009. These offices shall be filled every four (4) years in municipal elections held as provided in this article and according to state law.

D. The offices of the other three (3) council members shall be filled in municipal elections held in 2007. These offices shall be filled every four (4) years in municipal elections held as provided in this article and according to state law.

E. In the case of death, resignation, removal or disqualification from office of the mayor or a council member, an election shall be held to fill the vacancy when required by state law.

F. The officers shall be elected in at large elections which are held at the time and in the manner provided by law for electing municipal officers. (Ord. 2006-05, 3-14-2006)

#### 1-6C-3: NOMINATIONS:

A. Any person who is a registered voter may be a candidate and hold office, if the person has resided within the city for a period of twelve (12) consecutive months immediately preceding the date of the election. In the event of an annexation, any person who has resided within the territory annexed for the prescribed twelve (12) month period is deemed to meet the residency requirements for candidacy.

B. Any registered voter may be nominated for a municipal office by a petition signed by twenty five (25) residents of the city who are eighteen (18) years of age or older. Such a petition shall substantially conform with the form provided by the city recorder. No person shall sign more than one petition of nomination for any one office. In the event that one person signs more than one petition of nomination, his or her name shall be stricken from all such petitions submitted.

C. To become a candidate for elective office at a November election of the city, a declaration of candidacy or nomination petition shall be

filed with the city recorder during office hours beginning July 1 and not later than five o'clock (5:00) P.M. July 15 of any odd numbered year. In the event that July 15 falls on a Saturday or Sunday, the deadline shall be extended to the next business day at five o'clock (5:00) P.M. The declaration of candidacy shall be submitted upon the form supplied by the city recorder.

D. Immediately after expiration of the period for filing a declaration of candidacy, the city recorder shall cause the names of the candidates as they will appear on the ballot to be published in at least two (2) successive publications of a newspaper with general circulation in the city and notify the lieutenant governor of the names of the candidates as they will appear on the ballot. (Ord. 2009-04, 6-18-2009)

#### 1-6C-4: PRIMARY ELECTION:

A primary election shall be held on the Tuesday following the first Monday in October preceding the November municipal election to determine the candidates for elective office at the municipal election. At any primary election, the candidates receiving the highest number of votes, to the extent that there will be twice the number of nominees as there are vacant offices to be filled, shall be those deemed nominated. If the number of candidates for a particular office, however, does not exceed twice the number of offices to be filled at the election, no primary election for that office shall be held, and the candidate is deemed nominated. (Ord. 2005-02, 1-12-2005)

#### 1-6C-5: FILING FEE:

Each person seeking to become a candidate for a city office who files a declaration of candidacy shall pay a filing fee, and a filing fee shall be required for each nomination petition submitted. Such filing fee shall be set from time to time by resolution. (Ord. 2005-02, 1-12-2005)

#### 1-6C-6: CERTIFICATES PRESERVED TWO YEARS:

The city recorder shall cause to be preserved all certificates of nomination filed therein under the provisions of this article for a period of two (2) years. All such certificates shall be open to public inspection under proper rules and regulations made by the city recorder. (Ord. 2005-02, 1-12-2005)

#### 1-6C-7: POSTING OF NOTICE OF ELECTION AND PUBLICATION:

Before an election to fill any public office, the city recorder shall publish or post in the manner required by law a list of all nominations to offices certified to the city recorder under the provisions of this article. Such publication or posting shall be, as near as possible, in the form of the official ballots, and shall contain the hours during which the polls will be open, the polling places in each district, and the qualifications for persons to vote in the election, with the first publication or posting to be not less than six (6) days and not more than ten (10) days prior to the day of election. (Ord. 2005-02, 1-12-2005)

1-6C-8: FORM OF BALLOTS:

The city recorder shall provide ballots to the various voting districts and in so doing shall comply with the provisions of Utah Code Annotated sections 20A-6-401 and 20A-6-402. (Ord. 2005-02, 1-12-2005)

1-6C-9: OBJECTIONS TO NOMINATION PETITION:

All nomination petitions or declarations of candidacy which are in apparent conformity with the provisions of this article shall be deemed to be valid, unless objection thereto shall be duly made in writing within three (3) days after the filing of the same. In case such objection is made, notice thereof shall forthwith be immediately mailed to all the candidates who may be affected thereby. The city recorder shall pass upon the validity of such objection, and the recorder's decision shall be final; provided, that the recorder shall decide such objection within forty eight (48) hours after the same is filed, and any objection sustained may be remedied by an amendment to the original petition or declaration, or by filing a new petition or declaration within three (3) days after such objection is sustained. The city recorder's decision upon substantive matters is reviewable by a district court if prompt application is made to the court pursuant to state law. (Ord. 2005-02, 1-12-2005)

1-6C-10: WITHDRAWAL OF CANDIDACY:

Any person nominated or who has filed a declaration of candidacy may, in writing duly signed and acknowledged, and at any time up to twenty three (23) days before the election, notify the city recorder that he or she declines the nomination. In the event such notice is given, the nomination shall be void, and the name shall not be printed on the ballot. (Ord. 2005-02, 1-12-2005)

1-6C-11: QUALIFICATIONS OF VOTERS:

Any citizen of the United States who is a resident of the state and the city and who will, by the date of the next November election, be eighteen (18) years of age and have been a resident of the state for a period of thirty (30) days and is properly registered may vote at the November municipal election and in all elections in the calendar year preceding such November election. (Ord. 2005-02, 1-12-2005)

1-6C-12: ELECTION JUDGES; VOTING PLACES:

The city council shall appoint judges of election and designate places of voting. All elections must be conducted according to the general laws of the state. All notices and lists of names required to be posted by registration agents prior to any general election shall also be posted by the registration agents prior to any municipal election, the necessary changes being made as to time of posting. (Ord. 2005-02, 1-12-2005)

1-6C-13: CANVASS OF RETURNS; CERTIFICATE OF ELECTION:

On the Monday following any municipal election, the city council must convene and publicly canvass the results and issue certificates of election to each person elected by a plurality of votes. When two (2) or more persons have received an equal and highest number of votes for any one of the offices voted for, the tie shall be decided by lot in the presence of the mayor and city recorder upon a day designated by the mayor. (Ord. 2005-02, 1-12-2005)

1-6C-14: PREPARATION FOR ELECTIONS AND CONDUCT OF ELECTIONS:

In preparing for all municipal elections, the city recorder shall be responsible to see that the city complies with the provisions of the Utah election code. (Ord. 2005-02, 1-12-2005)

1-6C-15: DISCLOSURE OF CAMPAIGN FINANCES:

For statute authority, see UCA § 10-3-208.

Note the city legislation differs from that contained in the above referenced statute.

A. For purposes of this section, the following definitions shall apply:

!DEF! CANDIDATE: A person nominated for election to the office of mayor or city council as provided in this article.

CONTRIBUTION: 1. Any of the following when done for political purposes:

- a. A gift, subscription, donation, loan, advance or deposit of money or anything of value given to a candidate;
  - b. An express, legally enforceable contract, promise or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance or deposit of money or anything of value to the a candidate; and
  - c. Goods or services provided to or for the benefit of a candidate at less than fair market value.
2. "Contribution" does not include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, nor money lent to a candidate by a financial institution in the ordinary course of business.

DETAILED LISTING: 1. For each contribution:

- a. The name of the individual or source making the contribution;
  - b. The amount or value of the contribution; and
  - c. The date the contribution was made; and
2. For each expenditure:
- a. The amount of the expenditure;
  - b. The person or entity to whom it was disbursed;
  - c. The specific purpose for the expenditure; and
  - d. The date the expenditure was made.

EXPENDITURE: 1. Means:

- a. Any disbursement from contributions or receipts, or any disbursement from a candidate's own funds if done for political purposes;
  - b. A purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes; and
  - c. An express, legally enforceable contract, promise or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for political purposes.
2. "Expenditure" does not include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or money lent to a candidate by a financial institution in the ordinary course of business.

REPORTING DATE: 1. Ten (10) days before a municipal general election for a campaign finance statement required to be filed no later than seven (7) days before a municipal general election; and

2. The day of filing for a campaign finance statement required to be filed no later than thirty (30) days after a municipal primary or general election.

B. 1. Each candidate who is not eliminated at a municipal primary election shall file a signed campaign finance statement with the city recorder no later than seven (7) days before the municipal general election and no later than thirty (30) days after the municipal general election.

2. Each candidate who is eliminated at a municipal primary election shall file a signed campaign finance statement with the city recorder no later than thirty (30) days after the municipal primary election.

C. Each campaign finance statement filed under subsection B of this section shall:

1. Except as provided in subsection C2 of this section:

- a. Report all of the candidate's itemized and total campaign contributions as of the reporting date and campaign expenditures as of the reporting date; and

- b. A detailed listing of each contribution of more than \$50.00 received

by the candidate, an aggregate total of all contributions of five dollars (\$50.00) or less received by the candidate, and a detailed listing of each expenditure for political purposes made during the campaign period; or

2. Report the total amount of all campaign contributions and expenditures if the candidate receives seven hundred fifty dollars (\$750.00) or less in campaign contributions and spends seven hundred fifty dollars (\$750.00) or less on the candidate's campaign.

D. A person who fails to comply with this section is guilty of an infraction and is liable to punishment upon conviction thereof by a fine ~~in an amount not to exceed seven hundred fifty dollars (\$750.00)~~ as provided in section 1-4-1 of this code.

If this section is retained, suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes ☒ \_\_\_\_\_, No \_\_\_\_\_, or change as follows:

E. The required financial statements shall be public documents and shall be available for public inspection and copying during regular business hours.

F. The city recorder shall, at the time the candidate files a declaration of candidacy and again fourteen (14) days before each municipal general election, notify the candidate in writing of:

If this section is retained, suggest inclusion of underlined. Agree?

Response: Yes ☒ \_\_\_\_\_, No \_\_\_\_\_, or change as follows:

1. The provisions of this section governing disclosure of campaign contributions and expenditures;

2. The dates when the candidate's campaign finance statement is required to be filed; and

3. The penalties that apply for failure to file a timely campaign finance statement, including the statutory provision that requires removal of the candidate's name from the ballot for failure to file the required campaign statement when required.

G. A campaign finance statement required under this section is considered filed if it is received in the city recorder's office by five o'clock (5:00) P.M. on the date it is due. (Ord. 2005-02, 1-12-2005)

## CHAPTER 7

### OFFICERS AND EMPLOYEES

#### SECTION:

- 1-7-1: City Recorder
- 1-7-2: City Treasurer
- 1-7-3: City Court
- 1-7-4: City Attorney
- 1-7-5: City Engineer
- 1-7-6: Finance Director

#### 1-7-1: CITY RECORDER:

A. General Duties: The city recorder shall be the chief recordkeeping officer of the city. The city recorder shall perform all duties which are required by city ordinance, by direction of the city council or mayor, or by state law.

B. Clerk Of City Council: The city recorder shall be the clerk of the city council. The city recorder shall keep a record of the proceedings of the city council. The city recorder shall accurately record all ordinances and resolutions passed by the city council in a book kept for that purpose; he shall certify to the publication of all ordinances and retain the affidavits of publication.

C. Attest Mayor's Signature: The city recorder shall attest all papers signed by the mayor officially.

D. Appointment And Election Records: The city recorder shall keep, in a book provided for that purpose, the names of persons elected or appointed to any office, commission, board or committee within the city, together with the dates upon which they entered upon the duties of their respective office or positions and the dates of their resignation or



removal therefrom.

E. Countersign Contracts: The city recorder shall countersign all contracts made on behalf of the city, and every contract made on behalf of the city or to which the city is a party shall be void unless signed by the recorder. The city recorder shall maintain a record of all contracts, properly indexed, which records shall be open to inspection by all interested persons.

F. Certification Of Property Tax Levy: The city recorder shall certify the resolution setting the annual tax levy to the county auditor not later than the time provided by law each year. (Ord. 2005-02, 1-12-2005)

1-7-2: CITY TREASURER:

A. Custodian Of Funds: The city treasurer shall:

1. Be the custodian of all money, bonds or other securities belonging to the city;
2. Receive all money payable to the city, including all taxes, licenses and fines, and keep an accurate and detailed account thereof;
3. Collect all special taxes and assessments as provided by law and ordinance.

B. Receipts For Payments: The city treasurer shall give or cause to be given to every person paying money to the city treasury, a receipt or other evidence of payment therefor, specifying the date of payment and upon what account paid, and shall file the duplicate of such receipt or other evidence of payment in the office of the city recorder.

C. Signing Checks: The treasurer or such other persons as the city council may by resolution designate, shall sign all checks prepared by the ~~financial~~ director. Prior to affixing said signatures, the city treasurer, or such other person, shall determine that sufficient funds are on deposit in the appropriate account of the city to honor such check. The treasurer shall make provision for the payment of all warrants issued before signing any subsequently issued checks.

As per section 1-7-6 of this chapter, suggest omission of ~~strikeout~~ text and inclusion of underlined. Agree?

Response: Yes   x  , No       , or change as follows:

D. Payment Of Warrants: The treasurer shall pay all warrants in the order in which presented and as money becomes available for payment thereof in the appropriate funds of the city. The treasurer shall note upon the back of each warrant presented to him, the date of presentation and the date of payment.

E. Special Assessments: All money received by the treasurer on any special assessment shall be applied to the payment of the improvement for which the assessment was made. Such money shall be used for the payment of interest and principal on bonds, or other indebtedness issued in settlement thereof, and shall be used for no other purpose, except as otherwise provided by law. The treasurer shall have such duties as are provided by law regarding the sale of property for delinquent assessments.

F. Misuse Of Funds: The treasurer shall keep all money belonging to the city separate and distinct from his own and shall promptly make deposit thereof in the appropriate accounts of the city. Whenever it shall appear to the city council that the treasurer is making a profit from public money or is using the same for any purpose not authorized by law, it shall suspend him from office. Upon his conviction for such offense, his office shall become vacant.

G. Statements Of Utility Service: The treasurer shall mail a written monthly statement to each user of water service, garbage collection service, or other services of the city.

H. Other Duties: The treasurer shall perform such other duties as may be required by city ordinance, by direction of the mayor or city council, or by state law. (Ord. 2005-02, 1-12-2005)

#### 1-7-3: CITY COURT:

Until otherwise provided by ordinance, the city shall not establish a justice court and Utah County justice court shall serve as the city court. (Ord. 2005-02, 1-12-2005)

#### 1-7-4: CITY ATTORNEY:

A. Attorney Retained: The mayor shall retain an attorney duly admitted and licensed to practice law in the state, to serve as city attorney and as legal advisor to the mayor, city council and to city officers

and employees on matters pertaining to their duties, to represent the city in litigation, except where the city council directs otherwise, and to render such other legal services as may be required by the mayor or city council.

B. Compensation: The city attorney shall be compensated for his services as such on a basis authorized by the city council.

C. Legal Advisor: The city attorney shall render advice on all legal questions affecting the city whenever requested to do so by the mayor or any member of the city council. (Ord. 2005-02, 1-12-2005)

#### 1-7-5: CITY ENGINEER:

The mayor may retain a registered professional engineer or qualified engineering firm to advise the city council, city officials and employees on all engineering matters referred to him, and he or it shall perform such duties as are provided by law or ordinance or may be assigned to him or it by the mayor or city council from time to time. (Ord. 2005-02, 1-12-2005)

#### 1-7-6: FINANCE DIRECTOR:

A. Created: There is hereby created the office of finance director. The finance director shall be appointed by the mayor with the advice and consent of the city council and may be removed by the mayor with the advice and consent of the city council.

##### B. Duties:

1. The finance director shall, under the supervision and direction of the mayor:

a. Maintain the general books for each fund of the city and all subsidiary records related thereto, including a list of the outstanding bonds, their purpose, amount, terms, date and place payable.

b. Keep accounts with all receiving and disbursing officers of the city.

c. Preaudit all claims and demands against the city before they are allowed, and shall prepare the necessary checks in payment.

d. Certify on the voucher or check copy, as appropriate, that:

(1) The claim has been preaudited and documented;

(2) The claim has been approved by the city council or its delegate or the finance director;

(3) The claim is within the lawful debt limit of the city; and

(4) The claim does not overexpend the appropriate departmental budget established by the city council.

e. Prepare and present to the city council monthly summary financial reports and quarterly detail financial reports.

2. The finance director may approve payroll checks if the checks are prepared in accordance with the salary schedule approved by ~~resolution~~ ordinance of the city council. (Ord. 2005-02, 1-12-2005)

As per the requirements of Utah Code Annotated section 10-3-818, suggest omission of ~~strikeout text~~ and inclusion of underlined. Agree?

Response: Yes ☒ ~~\_\_\_~~, No ☐ ~~\_\_\_\_\_~~, or change as follows:

3. The finance director may approve routine expenditures, such as utility payments, payroll related expenses, purchase of supplies and materials, and payment on contracts approved by the city council; provided, however, the finance director shall not approve payment of any expenditure greater than one thousand five hundred dollars (\$1,500.00), except with specific approval of the city council. (Ord. 2009-02, 2-26-2009)

4. The finance director shall not have nor assume any duty of the city treasurer. (Ord. 2005-02, 1-12-2005)

## CHAPTER 8

### EMERGENCY INTERIM SUCCESSION

For statute authority, see UCA § 53-2a-801 et seq.

#### SECTION:

1-8-1: Definitions

1-8-2: Emergency Interim Successors  
1-8-3: Formalities Of Taking Office  
1-8-4: Removal Of Designees

1-8-1: DEFINITIONS:

As used in this chapter:

!DEF! ABSENT: Not physically present or not able to be communicated with for twenty four (24) hours. No person shall be considered absent who can be communicated with by telephone, radio or other telecommunications.

ATTACK: A nuclear, conventional, biological or chemical warfare action against the United States of America or the state of Utah.

DISASTER: A situation causing, or threatening to cause, widespread damage, social disruption or injury or loss of life or property resulting from attack, internal disturbance, natural phenomenon or technological hazard.

EMERGENCY INTERIM SUCCESSOR: A person designated by this chapter to exercise the powers and discharge the duties of an office when the person legally exercising the powers and duties of the office is unavailable.

INTERNAL DISTURBANCE: A riot, prison break, disruptive terrorism or strike.

NATURAL PHENOMENON: Any earthquake, tornado, storm, flood, landslide, avalanche, forest or range fire, drought, epidemic or other catastrophic event.

TECHNOLOGICAL HAZARD: Any hazardous materials accident, mine accident, train derailment, air crash, radiation incident, pollution, structural fire or explosion.

UNAVAILABLE: Absent from the city during a disaster that seriously disrupts normal governmental operations, whether or not that absence would give rise to a vacancy under existing constitutional or statutory provisions. (Ord. 2005-02, 1-12-2005) !DEFEND!

1-8-2: EMERGENCY INTERIM SUCCESSORS:

A. By July 1 of each year, the mayor, each member of the city council, city recorder, finance director and city treasurer shall:

1. Designate three (3) emergency successors;
  2. Specify their order of succession; and
  3. Provide a list of those designated successors to the city recorder.
- B. 1. Notwithstanding any other provision of law or ordinance, if any officer named in subsection A1 of this section or his legal deputy, if any, is unavailable, a designated emergency interim successor shall exercise the powers and duties of the office according to the order of succession specified by the officer.
2. An emergency interim successor shall exercise the powers and duties of the office only until:
- a. The vacancy is filled in accordance with statutory provisions; or
  - b. The officer, his deputy or an emergency interim successor earlier in order of succession becomes available to exercise the powers and duties of the office.
  - c. An emergency interim successor to the office of city recorder, city treasurer or **chief of police** shall exercise the duties of that office only until the person exercising the powers and duties of the office of mayor appoints a successor to fill the vacancy or a permanent successor is appointed and qualified as provided by ordinance.

Does the city maintain this position?

Response: \_\_\_\_\_ Yes;   X   No (omit reference)

C. The city recorder shall provide a copy of the list of all emergency interim successors designated pursuant to this section to the Utah division of comprehensive emergency management and to appropriate emergency personnel of Utah County. (Ord. 2005-02, 1-12-2005)

#### 1-8-3: FORMALITIES OF TAKING OFFICE:

A. At the time they are appointed as emergency interim successors, emergency interim successors shall sign prospectively whatever oath is required to enable them to exercise the power and duties of the office to which they may succeed.

B. Notwithstanding any other provision of law or ordinance, no person is required to comply with any other provision of law or ordinance relative to taking office as a prerequisite to the exercise of the powers and discharge of the duties of an office to which he succeeds. (Ord. 2005-02, 1-12-2005)

#### 1-8-4: REMOVAL OF DESIGNEES:

Until the persons designated as emergency interim successors succeed to the exercise of the powers and duties of an office, they shall serve as emergency interim successors at the pleasure of the designating officer and may be removed or replaced by the designating officer at any time, with or without cause. (Ord. 2005-02, 1-12-2005)

## CHAPTER 9

### RECORDS MANAGEMENT

For statute authority, see UCA § 63G-2-101 et seq.

Sterling has compared this chapter with the provisions of state statute. The legislature has adopted many amendments to the government records access and management act since the city adopted this ordinance. It appears the city, when adopting this legislation, mostly followed the provisions of state statute. As such, Sterling recommends the city simply adopt the act by reference, thereby omitting the need to maintain this chapter in compliance with state statute as those statutes are amended. However, if there is legislation the city feels is specific to Woodland Hills, please specify as those provisions can be retained. Sterling suggests the city maintain sections 1-9-6 and 1-9-14 of this chapter. The city officials would then refer to state statute for guidance with regard to records access and management.

Does the city desire to omit the provisions of this chapter, excluding sections 1-9-6 and 1-9-14, and adopt the state statute provisions by reference as follows:

**1-9-1: GOVERNMENT RECORDS ACCESS AND MANAGEMENT ACT ADOPTED BY REFERENCE:** Except insofar as the application thereof is clearly impractical or inappropriate, in view of the context of purposes or penalty as provided, all of the definitions, requirements, regulations, prohibitions, provisions and sections of the Utah government records access and management act, Utah Code Annotated section 63G-2-101 et seq., as amended, are hereby adopted by the city. Any and all violations thereof shall be considered class B violations of this chapter and each such violation shall subject the violator thereof to penalty as provided in section 1-4-1 of this code. (2015 Code)

Response:   X   Yes;        No

If your response is "no", amendments to this chapter will need to be addressed by the city officials. Please be sure to provide specific instructions.

Response:

SECTION:

1-9--1: Short Title  
1-9--2: Purpose And Intent  
1-9--3: Definitions  
1-9--4: Right Of Public Access  
1-9--5: Access To Nonpublic Records  
1-9--6: Fees  
1-9--7: Procedure For Access  
1-9--8: Procedure On Denial  
1-9--9: Records That Must Be Classified Public Records  
1-9-10: Private Records  
1-9-11: Controlled Records  
1-9-12: Records That May Be Classified As Protected  
1-9-13: Records Classification  
1-9-14: Records Retention  
1-9-15: Separation Of Records  
1-9-16: Appeals  
1-9-17: Judicial Review  
1-9-18: No Liability For Release  
1-9-19: Disciplinary Action

1-9-1: SHORT TITLE:

This chapter is known as the *WOODLAND HILLS GOVERNMENT RECORDS ACCESS AND MANAGEMENT ORDINANCE*. (Ord. 2005-02, 1-12-2005)

1-9-2: PURPOSE AND INTENT:

A. In adopting this chapter, the city recognizes two (2) fundamental rights:



1. The public's right of access to information concerning the conduct of the public's business; and

2. The right of privacy in relation to personal data gathered by the city.

B. It is the intent of the city to:

1. Promote the public's right of easy and reasonable access to unrestricted public records;

2. Provide clear standards specifying those conditions under which the public interest in allowing restrictions on access to records outweighs the public's interest in access;

3. Prevent abuse of confidentiality by the city by permitting confidential treatment of records only as provided in this chapter;

4. Provide guidelines for both disclosure and restrictions on access to government records, which are based on the equitable weighing of the pertinent interests and which are consistent with national standards of information practices; and

Suggest inclusion of underlined as per Utah Code Annotated section 63G-2-102. Agree?

Response: Yes    **x**   , No       , or change as follows:

5. Establish fair and reasonable records management practices.

1-9-3: DEFINITIONS:

As used in this chapter:

!DEF! AUDIT: A. A systematic examination of financial, management, programmed and related records, for the purpose of determining the fair presentation of financial statements, adequacy of internal controls or compliance with laws and regulations; or

B. A systematic examination of programmed procedures and operations for the purpose of determining their effectiveness, economy, efficiency and compliance with statutes and regulations.

CHRONOLOGICAL LOGS: The regular and customary records of law enforcement agencies and other public safety agencies that show the time and general nature of police, fire and paramedic calls made to the agency and any arrests or jail bookings made by the agency. Nothing in this definition shall, however, require disclosure of any record concerning any juvenile offender or any other record, the disclosure of which is restricted by any other law, regulation or contract.

CLASSIFICATION, CLASSIFY AND THEIR DERIVATIVE FORMS: Determining whether a record series, record or information is public, private, controlled, protected or exempt from disclosure under subsection 1-9-4C2 of this chapter.

COMPUTER PROGRAM: A. A series of instructions or statements that permit the functioning of a computer system in a manner designed to provide storage, retrieval and manipulation of data from the computer system, and any associated documentation and source material that explain how to operate the computer program.

B. "Computer program" does not mean:

1. The original data, including numbers, text, voice, graphics and images;
2. Analysis, compilation and other manipulated forms of the original data produced by use of the program; or
3. The mathematical or statistical formulas that would be used if the manipulated forms of the original data were to be produced manually.

CONTRACTOR: A. 1. Any person who contracts with the city to provide goods or services directly to the city; or

2. Any private, nonprofit organization that receives funds from the city.

B. "Contractor" does not mean a private provider.

CONTROLLED RECORD: A record containing data on individuals that is controlled as provided by section 1-9-11 of this chapter.

DESIGNATION, DESIGNATE AND THEIR DERIVATIVE FORMS: Indicating, based on the city's familiarity with a record series or based on the city's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

GOVERNMENT AUDIT AGENCY: Any governmental entity that conducts audits.

GROSS COMPENSATION: Every form of remuneration payable for a given period to an individual for services provided, including salaries, commissions, vacation pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any similar benefit received from the individual's employer.

INDIVIDUAL: A human being.

INITIAL CONTACT REPORT: A. An initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of the law, which report may describe:

1. The date, time, location and nature of the complaint, the incident or offense;
2. Names of victims;
3. The nature or general scope of the agency's initial action taken in response to the incident;
4. The general nature of any injuries or estimate of damages sustained in the incident;
5. The name, address and other identifying information about any person arrested or charged in connection with the incident;
6. The identity of public safety personnel (except undercover personnel) or prosecuting attorney involved in responding to the initial incident.

B. Initial contact reports do not include follow up or investigative reports prepared after the initial contact report. However, if the information specified in subsection A of this definition appears in the follow up or investigative reports, it may only be treated

confidentially if it is private, controlled, protected or exempt from disclosure under subsection 1-9-4C2 of this chapter.

PERSON: Any individual, nonprofit or profit corporation, partnership, sole proprietorship or other type of business organization.

PRIVATE PROVIDER: Any person who contracts with the city to provide services directly to the public.

PRIVATE RECORD: A record containing data on individuals that is private as provided by section 1-9-10 of this chapter.

PROTECTED RECORD: A record that is classified protected as provided by section 1-9-11 of this chapter.

PUBLIC RECORD: A record that is not private, controlled or protected, and that is not exempt from disclosure as provided in subsection 1-9-4C2 of this chapter.

RECORD: A. All books, letters, documents, papers, maps, plans, photographs, films, cards, tapes, recordings or other documentary materials, and electronic data regardless of physical form or characteristics, prepared, owned, received or retained by the city, and where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.

B. "Record" does not mean:

1. Temporary drafts or similar materials prepared for the originator's personal use or prepared by the originator for personal use of an individual for whom he is working;
2. Materials that are legally owned by an individual in his private capacity;
3. Materials to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by the city;
4. Proprietary software;
5. Junk mail or commercial publications received by the city or an official or employee of a city;
6. Books and other materials that are cataloged, indexed or inventoried and contained in the collections of

libraries open to the public, regardless of physical form or characteristics of the material;

7. Daily calendars and other personal notes or notes prepared by the originator for the originator's personal use or for the personal use ~~or for the personal use~~ for an individual for whom he is working;

Suggest omission of ~~strikeout~~ text as such duplicates the words prior. Agree?

Response: Yes ☒ x ☐, No ☐, or change as follows:

8. Computer programs, as defined in this section, that are developed or purchased by or for the city for its own use;
9. Notes or internal memorandum prepared as part of the deliberative process by a member of the judiciary, an administrative law judge or a member of any other body charged by law with performing a quasi judicial function; or
10. Items of evidence, including pictorial or diagrammatic exhibits offered or received in evidence in administrative or judicial proceedings.

RECORD SERIES: A group of records that may be treated as a unit for purposes of designation, description, management or disposition.

RECORDS OFFICER: The individual or individuals designated by the mayor to work in the care, maintenance, scheduling, designation, classification, disposal and preservation of records. A separate records officer may be designated for a particular department. For records, disclosure of which is restricted by other law, regulation or contract, the records officer with regard to those records shall be an employee of the department which is obligated to keep such records under applicable law, regulation or contract.

SUMMARY DATA: Statistical records and compilations that contain data derived from private, confidential or protected information, but that do not disclose private, confidential or protected information. (Ord. 2005-02, 1-12-2005) !DEFEND!

1-9-4: RIGHT OF PUBLIC ACCESS:

A. Every person has the right to inspect and to take a copy of a public record during normal working hours, subject to section 1-9-6 of this chapter.

B. All records are public unless otherwise expressly provided by this chapter or state or federal law or regulation.

C. The following records are not public:

1. Records that are appropriately classified private, controlled or protected as allowed by sections 1-9-10, 1-9-11 and 1-9-12 of this chapter; and

2. Records to which access is restricted by another state statute, federal statute or federal regulation, either directly or as a condition of participation in a state or federal program or for receiving state or federal funds.

D. The city shall provide a person with a certified copy of a record if the city has the original, and not merely a copy, of the record and if:

1. The person requesting the record has a right to see it;
2. He identifies the record with reasonable specificity; and
3. He pays the lawful fees.

E. 1. The city is not required to create a record in response to a request.

2. Nothing in this chapter requires the city to fulfill a person's records request if the request unreasonably duplicates a prior records request from that person.

F. If the city owns a copyright or patent affecting a record, and offers the copyrighted or patented record for sale, the city may control by ordinance or policy the access, duplication and distribution of the material based on terms the city considers to be in the public interest. Nothing in this chapter shall be construed to limit or impair the rights or protections granted to the city under federal copyright or patent law as a result of its ownership of the copyright or patent. (Ord. 2005-02, 1-12-2005)

1-9-5: ACCESS TO NONPUBLIC RECORDS:

A. Upon request, the city shall disclose a record that is classified private to:

1. The subject of the record;
2. The parent or legal guardian of an unemancipated minor who is the subject of the record;
3. The legal guardian of a legally incapacitated individual who is the subject of the record;
4. Any other individual who:
  - a. Has a power of attorney from the subject of the record; or
  - b. Submits a notarized release from the subject of the record or his legal representative dated no later than thirty (30) days before the date the request is made; or
5. Any person who has a court order signed by a judge from a court of competent jurisdiction to the extent that the record deals with a matter in controversy over which the court has jurisdiction after the court has considered the merits of the record request.

B. 1. Upon request, the city shall disclose a record that is classified controlled to:

- a. A physician, psychologist or certified social worker upon submission of a notarized release from the subject of the record that is dated no more than thirty (30) days prior to the date the request is made and a signed acknowledgment of the terms of disclosure of confidential information as provided by subsection B2 of this section; or
- b. Any person who has a court order signed by a judge from a court of competent jurisdiction to the extent that the record deals with a matter in controversy over which the court has jurisdiction after the court has considered the merits of the record requested.

2. A person who receives a record from the city in accordance with subsection B1a of this section may not disclose controlled information from that record to any person, including the subject of a record.

C. Upon request, the city shall disclose a record that is classified as protected to:

1. The person who submitted the information in the record;

2. Any other individual who:

a. Has a power of attorney from the subject of the record; or

b. Submits a notarized release from the subject of the record or his legal representative dated no more than thirty (30) days prior to the date the request is made; or

3. Any person who has a court order signed by a judge from a court of competent jurisdiction to the extent that the record deals with a matter in controversy over which the court has jurisdiction after the court has considered the merits of the record request.

D. The city may disclose a record classified private, controlled or protected to another city, another state, the United States, or a foreign government only as provided by Utah Code Annotated section 63G-2-206, as amended.

**Sterling has updated the above statute reference.**

E. Before releasing a record classified private, controlled or protected, the city shall obtain evidence of the requester's identity.

F. Nothing in this section prohibits the city from disclosing a record to persons other than those listed in subsections A, B and C of this section if the city determines that disclosure is in the public interest. This subsection shall be construed so as to allow disclosure of a record to such law enforcement and other governmental agencies as the city determines to be in the public interest. (Ord. 2005-02, 1-12-2005)

#### 1-9-6: FEES:

The city shall charge a reasonable fee to cover the city's actual cost of duplicating a record or compiling a record in a form other than that maintained by the city. The city shall charge a reasonable fee for certification of a record. Fees shall be set by resolution of the city council. (Ord. 2005-02, 1-12-2005)

#### 1-9-7: PROCEDURES FOR ACCESS:

A. A person making a request for a record shall furnish the city with a legible written request containing his name, mailing address, daytime



telephone number and a description of the record requested that identifies the record with reasonable specificity. The records officer having charge of a particular record need not require a specific written request for a record if that records officer has on file an inclusive request for the record which has been signed by a representative of the news media. The records officer may determine which records in the charge of that records officer may be disclosed under such a blanket request.

B. Except as provided in subsection C of this section, the city shall respond to a records request no later than ten (10) business days after receiving the request by:

1. Approving the request and providing the record;
2. Denying the request;
3. Notifying the requester that it does not maintain the record and providing, if known, the name and address of the city or other agency that does maintain the record; or
4. Notifying the requester that because of the extraordinary circumstances listed in subsection D of this section, it cannot immediately approve or deny the request, and specifying the earliest time and date when the records will be available.

C. If a requester demonstrates that he is a member of the news media or that expedited release of the record benefits the public rather than an individual, the city shall respond to a records request no later than five (5) business days after receiving the request.

D. The following circumstances constitute "extraordinary circumstances" that allow a city to delay approval or denial by an additional number of days as specified in subsection E of this section if the city determines that due to the extraordinary circumstances it cannot respond within the time limits provided in subsection B or C of this section:

1. Another governmental entity is using the record, in which case the city shall immediately request that the governmental entity currently in possession return the record;
2. Another governmental entity is using the record as part of an audit and returning the record before the completion of the audit would impair the conduct of the audit;
3. The request is for a voluminous quantity of records;

4. The city is currently processing a large number of records requests;
5. The request requires the city to review a large number of records to locate the records requested;
6. The decision to release a record involves legal issues requiring analysis of statutes, rules, ordinances, regulations or case law;
7. Separating public information from private, confidential or protected information requires extensive editing;
8. Separating public information from private, confidential or protected information requires computer programming; or
9. After reasonable search for the record, the city determines the record has been lost.

E. If the city claims that one of the extraordinary circumstances listed in subsection D of this section precludes approval or denial within the time specified in subsection B or C of this section, the following time limits apply to the circumstances:

1. For claims under subsection D1 of this section, the governmental entity currently in possession of the record shall return the record to the city within five (5) business days of the request for the return, unless returning the record would impair the holder's work;
2. For claims under subsection D2 of this section, the city shall notify the requester when the record is available for inspection and copying;
3. For claims under subsections D3, D4 and D5 of this section, the city shall:
  - a. Disclose the public records that it has located;
  - b. Provide the requester with an estimate of the amount of time it will take to finish the search; and
  - c. Complete the search and disclose the requested records as soon as reasonably possible;
4. For claims under subsection D6 of this section, the city shall either approve or deny the request within five (5) days after the response time designated for the original request has expired;
5. For claims under subsection D7 of this section, the city shall fulfill

the request within fifteen (15) business days from the date of the original request; or

6. For claims under subsection D8 of this section, the city shall complete its programming and disclose the requested records as soon as reasonably possible.

F. If the city fails to provide the requested records or issue a denial within the specified time period, that failure is considered the equivalent of a determination denying access to the records. (Ord. 2005-02, 1-12-2005)

#### 1-9-8: PROCEDURE ON DENIAL:

A. If the city denies the request in whole or part, it shall send a notice of denial to the requester's address.

B. The notice of denial shall contain the following information:

1. A description of the record or portions of the record to which access was denied; provided, that the description does not disclose private, confidential or protected information;

2. Citations to the provisions of this chapter, state statute, federal statute or federal regulation that exempt the record or portions of the record from disclosure; provided, that the citations do not disclose private, confidential or protected information;

3. A statement that the requester has the right to appeal the denial to the city council and then to district court; and

4. A brief summary of the appeals process, and the time limits for filing an appeal.

C. Unless otherwise required by a court or agency of competent jurisdiction, the city may not destroy or give up custody of any record to which access was denied until the period in which to bring an appeal has expired or the end of the appeals process, including judicial appeal. (Ord. 2005-02, 1-12-2005)

#### 1-9-9: RECORDS THAT MUST BE CLASSIFIED PUBLIC RECORDS:

The city shall classify the following records as public, except to the extent they contain information expressly permitted to be classified as exempt from disclosure under the provisions of subsection 1-9-4C2,

or section 1-9-10, 1-9-11 or 1-9-12 of this chapter:

A. Names, gender, gross compensation, job titles, job descriptions, job qualifications, business addresses, business telephone numbers, number of hours worked per pay period, and dates of employment of its former and present employees and officers, excluding undercover law enforcement officers or investigative personnel if disclosure would impair the effectiveness of investigations or endanger any person's safety;

B. Final opinions, including concurring and dissenting opinions, and orders that are made by a city in an administrative, adjudicative or judicial proceeding, except that if the proceedings were properly closed to the public, the opinion and order may be withheld to the extent that they obtain information classified as private, protected or confidential;

C. Final interpretation of ordinances or rules by the city unless classified as protected as provided in section 1-9-13 of this chapter;

D. Information contained in or compiled from a transcript, minutes or reproduction of a proceeding of a city, including the records of all votes of each member of the city council or other board or commission, except as provided by the open and public meetings act;

E. Ordinances and regulations;

F. Judicial records, unless a court orders the records to be restricted under the rules of civil or criminal procedure, or unless the records are properly classified as private;

G. Records containing data on individuals that would otherwise be classified as private if the individual who is the subject of the record has given the city written permission to make the records available to the public;

H. Records that do not contain data on individuals if the public's interest in access outweighs the interest of the city or other persons who seek to prevent disclosure;

I. Original data in a computer program if the city chooses not to disclose the program and the data is not otherwise classified as private, confidential or protected;

J. Administrative staff manuals, instructions to staff and statements of policy;

K. Records documenting a contractor's or private provider's compliance with the terms of a contract with the city;

L. Records documenting the services provided by a contractor or a private provider to the extent the records would be public if prepared by the city;

M. Records documenting the compensation that the city pays to a contractor or private provider;

N. Contracts entered into by the city;

O. Information in or taken from any account, voucher or contract that deals with the receipt or expenditure of funds by the city;

P. Records relating to assistance or incentives offered by or requested from the city, encouraging a person to expand or relocate a business in Utah, except the city may withhold the person's name and disclose only the size and nature of the business, using standard industrial classification or a similar description of the business unless:

1. The person has publicly announced its plans to expand or relocate in Utah; or

2. Ten (10) days have elapsed since the person accepted the city's commitment to provide assistance or incentives;

Q. Summary data;

R. Chronological logs and incident reports;

S. Correspondence by and with the city in which the city determines or states an opinion upon the rights of the city, the public or any personnel;

T. Empirical data contained in drafts if:

1. The empirical data is not reasonably available to the requester elsewhere in similar form; and

2. The city is given a reasonable opportunity to correct any errors or make nonsubstantive changes before release; and

U. Drafts that have never been finalized but were relied upon by the city in carrying out action or policy. (Ord. 2005-02, 1-12-2005)

1-9-10: PRIVATE RECORDS:

A. The following records are private:

1. Records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits or the determination of benefit levels;
2. Records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation or similar medical data;
3. Records of publicly funded libraries that when examined alone or with other records identify a patron;
4. Records concerning a current or former employee of, or applicant for employment with, the city that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status or payroll deductions.

B. The following records are private if properly classified by the city:

1. Records concerning a current or former employee of, or applicant for employment with, the city, including performance evaluations and personal status information such as race, religion or disabilities, but not including records that are public under subsection 1-9-9A of this chapter or private under subsection 1-9-10D of this chapter;
2. Records describing an individual's finances, except that the following are public:
  - a. Information provided to the city for the purpose of complying with a financial insurance requirement; or
  - b. Records that must be disclosed in accordance with the provisions of any statute;
3. Other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy; and
4. Records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it. (Ord. 2005-02, 1-12-2005)

1-9-11: CONTROLLED RECORDS:

A record is controlled if:

A. The record contains medical, psychiatric or psychological data about an individual;

B. The city reasonably believes that:

1. Releasing the information in the record to the subject of the record would be detrimental to the subject's mental health or to the safety of any individual; or

2. Releasing the information would constitute a violation of normal professional practice and medical ethics; and

C. The city has properly classified the record. (Ord. 2005-02, 1-12-2005)

1-9-12: RECORDS THAT MAY BE CLASSIFIED AS PROTECTED:

The following records are protected if properly classified by the city:

A. Trade secrets, as defined in Utah Code Annotated section 13-24-2, if the person submitting the trade secret has provided the city with the information specified in Utah Code Annotated section 63G-2-30~~8~~9, as amended;

**Sterling has updated the above statute reference.**

B. Commercial or nonindividual financial information obtained from a person if:

1. Disclosure of the information would result in unfair competitive injury to the person submitting the information or would impair the ability of the city to obtain necessary information in the future;

2. The person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

3. The person submitting the information has provided the city with the information specified in Utah Code Annotated section 63G-2-30~~8~~9, as amended;

**Sterling has updated the above statute reference.**

C. Commercial or financial information acquired or prepared by the city to the extent that a disclosure would lead to financial speculations in currencies, securities or commodities that will interfere with a planned transaction by the city or cause substantial financial injury to the city;

D. Test questions and answers to be used in future license, certification, registration, employment or academic examinations;

E. Records, the disclosure of which would impair governmental procurement or give an unfair advantage to any person proposing to enter into a contract or agreement with the city, except that this subsection does not restrict the right of a person to see bids submitted to or by the city after bidding has closed;

F. Records that would identify real property or the appraisal or estimate value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

1. Public interest in obtaining access to the information outweighs the city's need to acquire the property on the best terms possible;

2. The information has already been disclosed to persons not employed by or under a duty of confidentiality to the city;

3. In the case of records that would identify property, potential sellers of the described property have already learned of the city's plans to acquire the property; or

4. In the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the city's estimated value of the property;

G. Records prepared in contemplation of sale, exchange, lease, rental or other compensated transaction of real or personal property, including intellectual property, which, if disclosed prior to completion of the transaction would reveal the appraisal or estimated value of the subject property unless:

1. The public interest in access outweighs the interest in restricting access, including the city's interest in maximizing the financial benefit of the transaction; or



2. When prepared by or on behalf of the city, appraisals or estimates of value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the city;

H. Records created or maintained for civil, criminal or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification or registration purposes if release of the records:

1. Reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification or registration purposes;

2. Reasonably could be expected to interfere with audits, disciplinary or enforcement proceedings;

3. Would create a danger of depriving a person of a right to a fair trial or impartial hearing;

4. Reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

5. Reasonably could be expected to disclose investigative techniques, procedures, policies or orders not generally known outside of government if disclosure would interfere with enforcement efforts;

I. Records, the disclosure of which would jeopardize the life or safety of an individual;

J. Records, the disclosure of which would jeopardize the security of governmental recordkeeping systems from damage, theft or other appropriation for use contrary to law or public policy;

K. Records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation or parole;

L. Records that would disclose audit techniques, procedures and policies if disclosure would risk circumvention of an audit;

M. Records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

N. Records prepared by or on behalf of the city in anticipation of litigation that are not available under the rules of discovery, unless the records are otherwise classified as public;

O. Records disclosing an attorney's work product, including the mental impressions or legal theories of an attorney or other representative of the city concerning litigation;

P. Records of communications between the city and an attorney representing, retained or employed by the city if the communications would be privileged as provided in **Utah Code Annotated section 78-24-8, as amended;**

This statute no longer exists. If you refer to Utah Code Annotated section 63G-2-305(16), the statute references "attorney client privilege". If the city retains this legislation, suggest amendment to read "...would be attorney client privilege.". Agree?

Response: Yes ☒ x ☐, No ☐, Change as follows:

Q. Personal files of a member of the city council, but not correspondence that gives notice of legislative action or policy;

R. Drafts, unless otherwise classified as public;

S. Records concerning a city's strategy about collective bargaining or pending litigation;

T. Records of investigations of loss occurrences and analyses of loss occurrences;

U. Records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

V. Records that reveal the location of historic, prehistoric, paleontological or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational or cultural information;

W. Records of personnel evaluation, appointments, retention decisions and promotions generated in a meeting closed in accordance with the Utah open and public meetings act;

X. Records of the mayor's office, including, but not limited to, budget recommendation, legislative proposals and policy statements, that if disclosed would reveal the mayor's contemplated policies or contemplated courses of action before the mayor has implemented or rejected those policies or courses of action or made them public;

Y. Records of the mayor's office relating to budget analysis, revenue estimates and fiscal notes of proposed budgets before issuance of the final recommendations in these areas;

Z. Records provided by the United States or by a governmental entity outside the state that are given to the governmental city with a requirement that they be given a protected status;

AA. Transcripts, minutes or reports of the closed portion of a meeting of a public body, except as otherwise required by the open and public meetings act;

BB. Records that would reveal the contents of settlement negotiations, but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

CC. Memorandum prepared by staff and used in the decision making process by a member of any body charged by law with performing a quasi judicial function;

DD. Records relating to assistance or incentives offered by or requested from the city, encouraging a person to expand or relocate a business in Utah to the extent that the record would disclose the person's identity, unless:

1. The person has publicly announced its plans to expand or relocate in Utah; or

2. Ten (10) days have elapsed since the person accepted the city's commitment to provide assistance or incentives;

EE. Materials to which access must be limited for purposes of security or maintaining the city's proprietary protection of intellectual property rights, including patents, copyrights and trade secrets;

FF. The name of a donor or perspective donor to the city and other information concerning the donation that could reasonably be expected to reveal the identity of the donor; or provided, that:

1. The donor requests anonymity in writing;

2. Any terms, conditions, restrictions or privileges relating to the donation may not be classified protected by the city under this subsection;

3. The city or portion of the city government to which the donation is made is primarily engaged in educational, charitable or artistic endeavors and has not regulatory or legislative authority over the donor, a member of donor's immediate family, or any entity owned or controlled by the donor or his immediate family. (Ord. 2005-02, 1-12-2005)

#### 1-9-13: RECORDS CLASSIFICATION:

A. The city shall:

1. Examine all records or record series that it creates or to which it adds information;

2. Classify those records or record series as provided by this chapter;

3. Designate a primary classification for the majority of the information in the record series as public, private, confidential or protected; and

4. Indicate whether information within a classification other than the primary classification is present in the record series, and list the appropriate classifications.

B. The city is not required to classify any record or record series until a person requests access to the record or to a record within the record series.

C. The city may reclassify a record or record series at any time. (Ord. 2005-02, 1-12-2005)

#### 1-9-14: RECORDS RETENTION:

The "Utah Municipal General Records Retention Schedule 1990", a copy of which is on file in the office of the city recorder, is hereby adopted as city's records retention schedule and made a part of this chapter as if fully set out herein. (Ord. 2005-02, 1-12-2005)

#### 1-9-15: SEPARATION OF RECORDS:

Notwithstanding any other provision in this chapter, if the city receives a request for access to a record in a record series that is classified as private, confidential or protected, and the record contains information that standing alone would be public and intelligible, the city:

A. Shall allow access to public information in the record; and

B. May deny access to information in the record if the information is exempt from disclosure, issuing a notice of denial. (Ord. 2005-02, 1-12-2005)

1-9-16: APPEALS:

A. Any person aggrieved by the city's determination under section 1-9-17 of this chapter, including a person not a party to the city's proceeding, may appeal the determination to the city council by filing a notice of appeal.

B. The notice of appeal must be filed with the city recorder no later than:

1. Thirty (30) days after the city has responded to the records request by either providing the requested records or denying the request in whole or in part; or

2. Thirty five (35) days after the original request, if the city failed to respond to the request.

C. The notice of appeal shall contain the following information:

1. The petitioner's name, mailing address and daytime telephone number; and

2. The relief sought.

D. The petitioner may file a short statement of facts, reasons and legal authority in support of the appeal.

E. In the case of a protected record, the mayor shall inform the claimant of business confidentiality of the appeal and allow the claimant to provide further support for the claim of business confidentiality.

F. No later than five (5) days after receiving a notice of appeal, the recorder shall:

1. Schedule a hearing for the city council to discuss the appeal which shall be held within thirty (30) days from the date of the filing of the appeal;

2. At the hearing, the city council shall allow the parties to testify, present evidence and comment on the issues. The city council may allow other interested persons to comment on the issues.

3. No later than three (3) business days after the hearing, the city council shall issue a signed order either granting the petition in whole or in part or upholding the determination of the city in whole or in part.

4. The order of the city council shall include:

a. A statement of reasons for the decision, including citations to this chapter or state or federal law or regulation that governs disclosure of the record; provided, that the citations do not disclose private, confidential or protected information;

b. A description of the record or portions of the record to which access was ordered or denied; provided, that the description does not disclose private, confidential or protected information;

c. A statement that any party to the appeal may appeal the city's decision to district court; and

d. A brief summary of the appeal process, and a notice that in order to protect its rights on appeal, the party may wish to seek advice from an attorney. (Ord. 2005-02, 1-12-2005)

#### 1-9-17: JUDICIAL REVIEW:

Any party to a proceeding before the city council under section 1-9-16 of this chapter may petition for judicial review by the district court of the city council's order. The petition shall be filed no later than thirty (30) days after the date of the city council's order. (Ord. 2005-02, 1-12-2005)

#### 1-9-18: NO LIABILITY FOR RELEASE:

Neither the city nor any officer or employee of the city is liable for damages resulting from the release of a record where the person or government entity requesting the record presented evidence of authority

to obtain the record even if it is subsequently determined that the applicant had no actual authority. (Ord. 2005-02, 1-12-2005)

#### 1-9-19: DISCIPLINARY ACTION:

The city may take disciplinary action, which may include suspension or termination, against any employee who intentionally violates any provision of this chapter. (Ord. 2005-02, 1-12-2005)

## CHAPTER 10

### CONSTITUTIONAL TAKINGS

**For statute authority, see UCA § 63L-4-101 et seq.**

#### SECTION:

- 1-10-1: Policy Considerations
- 1-10-2: Constitutional Taking Defined
- 1-10-3: Guidelines Advisory
- 1-10-4: Review Of Decision
- 1-10-5: Reviewing Guidelines
- 1-10-6: Results Of Review

#### 1-10-1: POLICY CONSIDERATIONS:

There is an underlying policy in the city strongly favoring the careful consideration of matters involving constitutional taking claims, in fairness to the owner of private property bringing the claim and in view of the uncertainty and expense involved in defending litigation alleging such issues. At the same time, the legitimate role of government in lawfully regulating real property and the public's right to require the dedication or exaction of property consistent with the constitution of the United States of America and the constitution of the state of Utah must be preserved. Consistent with this policy, it is desired that a procedure be established for the review of actions that may involve the issue of a constitutional taking. These provisions are to assist the city, its officials, employees, boards, commissions and councils in considering decisions that may involve constitutional takings. It is intended that a procedure for such a review be provided, as well as guidelines for such considerations. This chapter is further intended and shall be construed to objectively and fairly review claims

by property owners that a specific government action should require payment of just compensation, yet preserve that ability of the city to lawfully regulate real property and fulfill its other duties and functions. (Ord. 2005-02, 1-12-2005)

#### 1-10-2: CONSTITUTIONAL TAKING DEFINED:

A. "Constitutional taking" means any action by the city involving the physical taking or exaction of private real property that may require compensation to the owner of that property because of: 1) the fifth or fourteenth amendment of the constitution of the United State of America; 2) article I, section 22 of the constitution of the state of Utah; or 3) any court ruling governing the physical taking or exaction of private real property by a governmental entity.

B. Actions by the city involving the physical taking or exaction of private real property is not a constitutional taking if the physical taking or exaction bears an essential nexus to a legitimate governmental interest and is roughly proportional and reasonably related, on an individualized property basis, both in nature and extent, to the impact of the proposed development on the legitimate government interest. (Ord. 2005-02, 1-12-2005)

#### 1-10-3: GUIDELINES ADVISORY:

The guidelines adopted and decisions rendered pursuant to the provisions of this chapter are advisory, and shall not be construed to expand or limit the scope of the city's liability for a constitutional taking. The reviewing body or person shall not be required to make any determination under this chapter except pursuant to section 1-10-4 of this chapter. (Ord. 2005-02, 1-12-2005)

#### 1-10-4: REVIEW OF DECISION:

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

A. Final Determination: The person requesting the review shall have obtained a final determination from which the review is requested.

B. Request For Review: Within thirty (30) days from the date of the final



decision that gave rise to the claim of a constitutional taking, the person requesting the review shall file in writing, in the office of the city recorder, a request for review of that decision. A copy of the request shall also be filed with the city attorney.

C. Time For Review Set: The city council, or an individual designated by the city council, shall immediately set a time to review the decision that gave rise to the constitutional takings claim.

D. Contents Of Request: The written request for review shall include the following:

1. Name and address of the applicant, including telephone number;
2. Name and business address of the current owner of the real property, form of ownership, and if owned by a corporation, partnership, joint venture, limited liability company or other entity, the name and address of all principal shareholders or partners;
3. A detailed description of the grounds for the claim that there has been a constitutional taking;
4. A detailed description of the property alleged to have been taken;
5. Evidence and documentation as to the value of the property allegedly taken, including the date and cost at the date the property was acquired. The documentation should include any evidence of the value of the same property before and after the alleged constitutional taking. Documentation must also include the name of the party from whom purchased, the relationship, if any, between the person requesting the review, and the party from whom the property was acquired;
6. Nature of the protectable interest claimed to be affected, such as, but not limited to, fee simple ownership or leasehold interest;
7. Terms, including sale price, of any previous purchase or sale of a full or partial interest in the property during the three (3) years prior to the date of the application;
8. All appraisals of the property prepared for any purchase, including financing, offering for sale or ad valorem taxation, within three (3) years prior to the date of the application;
9. The assessed value of and ad valorem taxes on the property for the previous three (3) years;
10. All information concerning current mortgages or other loans secured

by the property, including name of the mortgagee or lender, current interest rate, remaining loan balance and term of the loan and other significant provisions, including, but not limited to, right of the purchasers to assume the loan;

11. All listings of the property for sale or rent, price asked and offers received, if any, within the three (3) years prior to the application for review;

12. All studies commissioned by the petitioner or agents of the petitioner within three (3) years prior to the application concerning feasibility of development or utilization of the property;

13. For income producing property, itemized income and expense statements for all activities conducted on the property for a period of three (3) years prior to the application;

14. A preliminary title report or similar report showing all recorded liens or encumbrances affecting the property; and

15. Such additional information as the city council or its designee may request which is reasonable necessary to arrive at a conclusion concerning whether there has been a constitutional taking.

E. Certification Of Complete Application Required: An application shall not be deemed to be "complete" or "submitted" until the city recorder or city council or other reviewing official certifies to the applicant that all the materials and information required have been received by the city. The city recorder or city council or other reviewing officer shall promptly notify the applicant of any incomplete application.

F. Hearing: The city council or an individual or body designated by it shall hear all the evidence relating to and submitted by the applicant and any other interested party.

G. Final Decision: A final decision on the review shall be rendered within fourteen (14) days from the date the complete application for review has been received by the city recorder. The decision of the city council or its designee regarding the results of the review shall be given in writing to the applicant and the officer, employee, board, commission or council that rendered the final decision which gave rise to the constitutional taking claim.

H. Failure To Hear And Decide: If the city council or its designee fails to hear and decide the review within the fourteen (14) day period, the decision appealed from shall be presumed to be approved. (Ord. 2005-02, 1-12-2005)

#### 1-10-5: REVIEWING GUIDELINES:

The city council or its designee shall review the facts and information presented by the applicant to determine whether or not the action by the city constitutes a "constitutional taking", as defined in section 1-10-2 of this chapter. In doing so the city council or its designee shall consider the following:

A. Whether the physical taking or exaction of the private real property bears an essential nexus to a legitimate governmental interest.

B. Whether a legitimate governmental interest exists for the action taken by the city.

C. Whether the property and the exaction taken are roughly proportional and reasonably related, on an individual property basis, both in nature and extent to the impact caused by the activities that are the subject of the decision being reviewed. (Ord. 2005-02, 1-12-2005)

#### 1-10-6: RESULTS OF REVIEW:

After completing the review, the reviewing person or officer shall make a determination regarding the issues specified in section 1-10-5 of this chapter and shall, where determined to be necessary and appropriate, make a recommendation to the officer, employee, board, commission or council that made the decision which gave rise to the constitutional taking claim. (Ord. 2005-02, 1-12-2005)

## CHAPTER 11

### REVENUE AND TAXATION

#### ARTICLE A. SALES AND USE TAX

**For statute authority, see UCA § 59-12-101 et seq.**

#### SECTION:

1-11A-1: Title

1-11A-2: Purpose

1-11A-3: Effective Date

1-11A-4: Sales And Use Tax  
1-11A-5: Mayor Authorized To Execute Documents  
1-11A-6: Contract With State

1-11A-1: TITLE:

This chapter shall be known as the *UNIFORM LOCAL SALES AND USE TAX ORDINANCE OF WOODLAND HILLS CITY*. (Ord. 2005-03, 3-9-2003)

1-11A-2: PURPOSE:

The state legislature has authorized municipalities of the state to adopt sales and use tax ordinances imposing a one percent (1%) tax. The purpose of this chapter is to conform the city sales and use tax to the requirements of the Utah local sales and use tax act. (Ord. 2005-03, 3-9-2003)

1-11A-3: EFFECTIVE DATE:

This article shall become effective as of one minute after twelve o'clock (12:01) A.M., January 1, 1990. (Ord. 2005-03, 3-9-2003)

1-11A-4: SALES AND USE TAX:

A. Tax Imposed:

1. From and after the effective date hereof, there is levied and shall be collected and paid a tax upon every retail sale of tangible personal property, services and meals within the city at the rate of one percent (1%).

2. There is hereby imposed on the storage, use or other consumption in the city of tangible personal property from any retailer on or after the effective date hereof at the rate of one percent (1%) of the sales price of the property.

3. For purposes of this article, all retail sales shall be presumed to have been consummated at the place of business or 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 destination. In the event a retailer has no permanent place of business, the place or places at which retail sales are consummated shall be as determined under the rules and regulations 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 where public utilities services 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 regulations to be prescribed and adopted by the commission.

B. Statute Provisions Applicable:

1. Except as otherwise provided in this article and except insofar as they are inconsistent with the provisions of the Utah sales and use tax act, all of the provisions of Utah Code Annotated title 59, chapter 12, as the same is now in force or as may be hereafter amended, insofar as they relate to sales and use taxes, **excepting sections 59-12-101 and 59-12-119**, are hereby adopted and made a part of this article as though fully set forth herein.

Suggest omission of ~~strikeout~~ text as section 59-12-101 is simply the title of the act and section 59-12-119 no longer exists. Agree?

Response: Yes ☒ No ☐, or change as follows:

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 the city shall be substituted thereof. Nothing in this subsection B2 shall be deemed to require substitution of the name of the city for the word "state" when that word is used as part of the title of the state tax commission or of the constitution of the state of Utah, nor shall the name of the city be substituted for that of the state in any section where the result of that substitution would require action to be taken by or against the city rather than by or against the state tax commission in performing the functions incident to the administration or operation of this article.

C. Additional License Not Required: 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.

D. Exclusions: There shall be excluded from the purchase price paid or charged by which the tax is measured:

1. The amount of any sales or use tax imposed by the state of Utah upon a retailer or consumer;

2. The gross receipts from the sale or of 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 sale transaction to any other municipality and any county in the state of Utah, under the sales and use tax ordinance adopted by that municipality or county in accordance with the Utah sales and use tax act. (Ord. 2005-03, 3-9-2003)

1-11A-5: MAYOR AUTHORIZED TO EXECUTE DOCUMENTS:

The mayor is authorized to execute such documents as are necessary to distribute sales and use tax revenues as provided by law. (Ord. 2005-03, 3-9-2003)

1-11A-6: CONTRACT WITH STATE:

The mayor is authorized to enter to such agreements with the state tax commission as may be necessary to the continued administration and operation of this article. (Ord. 2005-03, 3-9-2003)

CHAPTER 11

REVENUE AND TAXATION

ARTICLE B. ENERGY SALES AND USE TAX

**For statute authority, see UCA § 10-1-301 et seq.**

SECTION:

1-11B-1: Title

1-11B-2: Purpose

1-11B-3: Energy Sales And Use Tax

1-11B-4: Mayor Authorized To Execute Documents

1-11B-5: Collection Of Tax

1-11B-6: Remittance

1-11B-7: Records Inspection

1-11B-8: Condition Of Service

1-11B-9: Effective Date

1-11B-1: TITLE:

This article shall be known as the *MUNICIPAL ENERGY SALES AND USE TAX ORDINANCE OF THE CITY OF WOODLAND HILLS*. (Ord. 2005-03, 3-9-2003)

1-11B-2: PURPOSE:

The state legislature has authorized municipalities of the state to adopt ordinances imposing a tax of up to six percent (6%) of the value of energy delivered to customers. It is the purpose of this article to conform the energy sales and use tax of the city to the requirements of the Utah municipal energy sales and use tax act. (Ord. 2005-03, 3-9-2003)

1-11B-3: ENERGY SALES AND USE TAX:

A. Tax Imposed: From and after the effective date hereof, there is levied and there shall be collected and paid a tax upon every delivery of taxable energy, as defined by state law, which is delivered to a customer within the city. The amount of the tax shall be six percent (6%) of the value of the energy delivered to the customer.

B. Statutes Applicable:

1. For purpose of determining the tax and the value of delivered energy, rules and regulations adopted by the state tax commission shall be applicable and are adopted by this reference.

2. The definitions set forth in Utah Code Annotated sect 10-1-303, are adopted and made apart of this article as though fully set forth herein.

C. Franchise Fees: This article shall not affect any contractual franchise fee, which shall continue to be paid by the franchisee according to the terms thereof, except that there shall be allowed a credit against the tax due under this chapter for any contractual franchise fee paid if:

1. The energy supplier pays a contractual franchise fee to the city pursuant to a franchise agreement in effect on July 1, 1997;

2. The energy supplier passes the contractual franchise fee to its customers as a separately itemized charge; and

3. The energy supplier has accepted the franchise.

D. Exclusions: There shall be excluded from the purchase price paid or charged by which the tax is measured as provided in Utah Code Annotated section 10-1-305.

~~1. The sale and use of aviation fuel, motor fuel or special fuel subject to taxation under the Utah motor and special fuel tax act;~~

~~2. The sales and use of taxable energy that the city is prohibited from taxing under federal law or the constitution of the United States or the constitution of the state of Utah;~~

~~3. The sale and use of taxable energy purchased or stored in the state for resale;~~

~~4. The sale or use of taxable energy to a person if the primary use is for compounding or producing taxable energy or fuel subject to taxation under the Utah motor and special fuel tax act;~~

~~5. The taxable energy brought into the state by a nonresident for the nonresident's own personal use or enjoyment while within the state, except a taxable energy purchased for use in the state by a nonresident living working in the state at the time of purchase;~~

~~6. The sale or use of taxable energy for any purpose other than as fuel energy; and~~

~~7. The sale of taxable energy for use outside the city.~~

Suggest omission of strikeout text and inclusion of underlined. This way, as the statutes are amended, the city legislation stay current. Agree?

Response: Yes ☒ ~~\_\_\_~~, No ~~\_\_\_\_\_~~, or change as follows:

D. Additional License Not Required: An additional license to collect the tax is not required if one has been issued under Utah Code Annotated section **59-12-206.**

We believe the correct statute reference is section 59-12-106. Does the city agree?

Response: Yes ☒ ~~\_\_\_~~, No ~~\_\_\_\_\_~~, Change as follows:



1-11B-4: MAYOR AUTHORIZED TO EXECUTE DOCUMENTS:

The mayor is authorized to execute such documents as are necessary to distribute the energy sales and use tax revenues in compliance with the Utah municipal energy sales and use tax act. (Ord. 2005-03, 3-9-2003)

1-11B-5: COLLECTION OF TAX:

It is Sterling's suggestion that the city reference the procedures of Utah Code Annotated 10-1-307 in lieu of the following legislation. The state statutes provide very specific procedures for administration and collection of this tax. Does the city agree with this recommendation?

Response:   X   Yes;        No

A. If the energy supplier estimates that the municipal energy sales and use tax collected annually from its Utah customers equals one million dollars (\$1,000,000.00) or more, the energy supplier shall collect the tax and remit it directly to the city.

B. If the energy supplier estimates that the municipal energy sales and use tax collected annually from its Utah customers is less than one million dollars (\$1,000,000.00), the energy supplier shall collect the tax and remit the same to the state tax commission for disbursement to the city, or may disburse directly to the city if authorized by the state tax commission.

C. If the energy supplier pays the tax directly to the city, the energy supplier may retain the percentage of the tax authorized under Utah Code Annotated section 59-12-~~208(3)~~108(2) for its costs of collecting and paying the tax to the city. (Ord. 2005-03, 3-9-2003)

Sterling has corrected the above statute reference.

1-11B-6: REMITTANCE:

An energy supplier collecting an energy sales or use tax under this

article shall submit a report to the city within forty five (45) days after the end of each calendar month. The report shall show the gross revenues received from the delivery of taxable energy within the city during the month. The report shall be accompanied by the amount of tax due to the city, except as provided by subsection 3-1-5B of this article. (Ord. 2005-03, 3-9-2003)

#### 1-11B-7: RECORDS INSPECTION:

The city shall have the right, after giving reasonable notice, to inspect the books of any energy supplier delivering energy within the city to determine the correctness of the monthly reports submitted to the city. The inspection shall be limited to books and records pertaining to the energy delivered within the boundaries of the city. (Ord. 2005-03, 3-9-2003)

#### 1-11B-8: CONDITION OF SERVICE:

As a condition of providing or delivering taxable energy within the city, each energy supplier shall comply with all of the requirements of this article. (Ord. 2005-03, 3-9-2003)

#### 1-11B-9: EFFECTIVE DATE:

The tax provided by this chapter shall commence as of July 1, 1997. (Ord. 2005-03, 3-9-2003)

## CHAPTER 11

### REVENUE AND TAXATION

#### ARTICLE C. TELECOMMUNICATION SERVICE SALES AND USE TAX

**For statute authority, see UCA § 10-1-401 et seq.**

#### SECTION:

- 1-11C-1: Title
- 1-11C-2: Definitions
- 1-11C-3: Levy Of Tax
- 1-11C-4: Change Or Repeal Of Tax

1-11C-5: Procedures For Tax Erroneously Paid By Customers  
1-11C-6: Interlocal Cooperation Agreement For Collection  
1-11C-7: Repeal Of Other Taxes And Fees

1-11C-1: TITLE:

This article shall be known as the *MUNICIPAL TELECOMMUNICATION SERVICE SALES AND USE TAX ~~OF~~ ORDINANCE OF THE CITY OF WOODLAND HILLS*. (Ord. 2005-03, 3-9-2005)

Suggest omission of strikeout text. Agree?

Response: Yes ☒ No ☐, or change as follows:

1-11C-2: DEFINITIONS:

As used in this article:

!DEF! COMMISSION: The Utah state tax commission.

CUSTOMER: A. 1. The person who is obligated under a contract ~~to~~ with a telecommunications provider to pay for telecommunication service received under the contract; or

Suggest omission of strikeout text. Agree?

Response: Yes ☒ No ☐, or change as follows:

2. If the end user is not the person described in subsection A1 of this definition, the end user of telecommunication service.

B. "Customer" does not include:

1. A reseller of telecommunication service; or

2. For mobile telecommunication service, a reseller of a service carrier under an agreement to serve the customer outside the telecommunication service provider's licensed service area.

END USER: A. The person who uses a telecommunication service.

B. For purposes of telecommunication service provided to a person who is not an individual, "end user" means the individual who uses the telecommunication service on behalf of the person who is provided the telecommunication service.

**GROSS RECEIPTS ATTRIBUTED TO THE CITY:** Those gross receipts from a transaction for telecommunication service that is located within the city for purposes of sales and use taxes under the Utah sales and use tax act and determined in accordance with **Utah Code Annotated section 59-12-207**.

This term is no longer defined in Utah Code Annotated section 10-1-402. Also, the statute referenced is no longer applicable. If the city still desires to include this definition, suggest the statute reference be changed to Utah Code Annotated title 59, chapter 12. Please specify the desire of the city.

Response: \_\_\_\_\_ Omit definition; **X** Amend definition

**GROSS RECEIPTS FROM TELECOMMUNICATION SERVICE:** The revenue that a telecommunication provider receives for telecommunication service rendered, except for the amounts collected or paid as:

A. A tax, fee or charge:

1. Imposed by a governmental entity;
2. Separately identified as a tax, fee or charge in the transaction with the customer for telecommunication service; and
3. Imposed only on a telecommunication provider;

B. Sales and use taxes collected by the telecommunication provider from a customer under the Utah sales and use tax act; or

C. Interest, a fee, or a charge that is charged by a telecommunication service provider to a customer for failure to pay for telecommunication service when payment is due.

**MOBILE TELECOMMUNICATION SERVICE:** As defined in the mobile telecommunications sourcing act (4 USC § 124).

PLACE OF PRIMARY USE: A. For telecommunication service other than mobile telecommunication service, the street address representative of where the customer's use of the telecommunication service primarily occurs, which shall be:

1. The residential street address of the customer; or
2. The primary business address of the customer;

B. For mobile telecommunication service, as defined in the mobile telecommunications sourcing act (4 USC § 124).

SERVICE ADDRESS: Notwithstanding where a telephone call is billed or paid: !DEFEND!

A. If the location described in this subsection A of this definition is not known, the location of the telecommunication equipment:

1. To which a call is charged;
2. And from which call originates or terminates;

B. If the location described in subsection A of this definition is not known but the location described in this subsection B of this definition is known, the location of the origination point of the signal of the telecommunication service first identified by:

1. The telecommunication system of the telecommunication provider;  
or
2. If the system used to transport the signal is not a system of the telecommunication service provider, information received by the telecommunication service provider from its service provider; or

C. If the locations described in subsections A and B of this definition are not known, the location of a customer's place of primary use.

TELECOMMUNICATION PROVIDER OR TELECOMMUNICATION SERVICE PROVIDER: A. A person that:

1. Owns, controls, operates or manages a telecommunication service;  
or

2. Engages in an activity described in subsection A1 of this definition for the shared use with or resale to any person of the telecommunication service.

B. A person described in subsection A of this definition is a telecommunication provider whether or not the public service commission of Utah regulates that person or the telecommunication service that the person owns, controls, operates or manages.

C. "Telecommunication provider" or "telecommunication service provider" does not include an aggregator, as defined in Utah Code Annotated section 54-8b-2.

TELECOMMUNICATION SERVICE: A. Telephone service, as defined in Utah Code Annotated section 59-12-102, other than mobile telecommunication service, that originates and terminates with the boundaries of the state of Utah; and

B. Mobile telecommunication service, as defined in Utah Code Annotated section 59-12-102, that originates and terminates within the boundaries of one state, but only to the extent permitted by the mobile telecommunications sourcing act (4 USC § 116 et seq.). (Ord. 2005-03, 3-9-2005)

#### 1-11C-3: LEVY OF TAX:

A. There is hereby levied a municipal telecommunications license tax on the gross receipts of telecommunications service attributed to the city.

B. The rate of the tax levy shall be four percent (4%) of the telecommunication service provider's gross receipts from telecommunications services that are attributed to the city. If the location of transaction is determined to be other than the city, the rate imposed on the gross receipts for telecommunications services shall be determined as provided in Utah Code Annotated section 10-1-404.

C. The rate of tax levy shall not exceed four percent (4%) of the telecommunication provider's gross receipts from telecommunications service attributed to the city unless a higher rate is approved by a majority vote of the voters in the city that vote in a municipal general election, a regular general election or a local special election.

Suggest inclusion of underlined. Agree?

Response: Yes ☒ X ☐, No ☐, or change as follows:

D. The tax shall be levied beginning the early of July 1, 2004, ~~of~~ or the first day of any calendar quarter after a seventy five (75) day period beginning on the date the commission receives notice pursuant to Utah Code Annotated section 10-1-403, that the city has adopted this article. (Ord. 2005-03, 3-9-2005)

Suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes ☒ X ☐, No ☐, or change as follows:

1-11C-4: CHANGE OR REPEAL OF TAX:

This article is subject to the requirements of Utah Code Annotated section 10-1-403. If the tax rate is changed or the tax is repealed, appropriate notice shall be given as provided in that section. (Ord. 2005-03, 3-9-2005)

1-11C-5: PROCEDURES FOR TAX ERRONEOUSLY PAID BY CUSTOMERS:

As provided by Utah Code Annotated section 10-1-408, and except as provided in this section, a customer may not bring a cause of action against a telecommunications provider on the basis that the telecommunications provider recovered from the customer the municipal telecommunications license tax. (Ord. 2005-03, 3-9-2005)

Suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes ☒ X ☐, No ☐, or change as follows:

1-11C-6: INTERLOCAL COOPERATION AGREEMENT FOR COLLECTION:

The city shall enter into an interlocal cooperation agreement with the commission for collection, enforcement and administration of the tax as provided by Utah Code Annotated section 10-1-405. (Ord. 2005-03, 3-9-2005)

1-11C-7: REPEAL OF OTHER TAXES AND FEES:

All taxes and fees previously adopted by the city under authority of Utah Code Annotated section 10-1-203 or Utah Code annotated title 11, chapter 26, are hereby repealed; provided, however:

A. Nothing in this chapter shall repeal nor be interpreted as repealing any ordinance or fee pursuant to which the city may recover from a telecommunications provider the management costs of the city caused by activities of the telecommunications provider in the rights of way of the city, if:

1. The fee is imposed in accordance with Utah Code Annotated section 72-7-102; and

2. Is not related to:

a. The city's loss of use of a highway as a result of the activities of the telecommunications provider in a right of way; or

b. Increased deterioration of a highway as a result of the activities of the telecommunications provider in a right of way; and

B. This article does not limit the city's right to charge fees or taxes on persons or entities that are not subject to the municipal telecommunications license tax under this article who locate telecommunications facilities, as defined in Utah Code Annotated section 72-7-108, in the city. (Ord. 2005-03, 3-9-2005)

CHAPTER 11

REVENUE AND TAXATION

ARTICLE D. PROPERTY TAX

For statute authority, see UCA §§ 10-6-120, 10-6-133.



SECTION:

- 1-11D-1: Tax Levy
- 1-11D-2: Basis For Determining Levy
- 1-11D-3: Apportionment To Separate Funds
- 1-11D-4: Limit On Levy
- 1-11D-5: Certification Of Levy

1-11D-1: TAX LEVY:

Not later than the June 22 of each year, or August 17 in the case of a property tax rate increase, the city council shall by resolution levy taxes on the real and personal property within the city made taxable by law for the various municipal purposes. (Ord. 2005-03, 3-9-2005)

1-11D-2: BASIS FOR DETERMINING LEVY:

From the effective date of the budget or any amendment thereof adopted prior to the date on which property taxes are levied, the amount stated therein as the amount of estimated revenue from property taxes shall constitute the basis for a determination of the amount of the property tax levy to be imposed by the city during the corresponding tax year, subject to any applicable limitations in section 1-11D-4 of this article or imposed by state law. (Ord. 2005-03, 3-9-2005)

1-11D-3: APPORTIONMENT TO SEPARATE FUNDS:

The city council shall, in its computation of the total levy, determine the requirements of each fund for which property taxes are to be levied and shall specify in its resolution adopting said levy the amount of the levy apportioned to each of said funds. The proceeds of said levy apportioned for general fund purposes shall be received as revenue of the general fund. The proceeds of said levy apportioned for utility and other special fund purposes shall be credited to the appropriate accounts in the utility or other special funds. (Ord. 2005-03, 3-9-2005)

1-11D-4: LIMIT ON LEVY:

The total levy for all purposes in any fiscal year, excepting the retirement of general obligation bonds and the payment of interest

thereon, and other taxes expressly authorized by law to be levied in addition thereto, shall not exceed the maximum levy authorized by state law. (Ord. 2005-03, 3-9-2005)

1-11D-5: CERTIFICATION OF LEVY:

The city recorder shall certify the resolution making the annual tax levy to the county auditor within the time required by state law. (Ord. 2005-03, 3-9-2005)

CHAPTER 11

REVENUE AND TAXATION

ARTICLE E. SPECIAL IMPROVEMENT DISTRICTS

For statute authority, see UCA §§ 17B-1, 17B-2a-401 et seq.

We question the necessity of this legislation in that the city is guided by the above referenced statutes, which provide very specific procedures for establishing improvement districts. Refer to public hearing requirements in sections 17B-1-210 and 17B-1-211, which differ from this legislation. As such, should this article be included in the new code?

Response: \_\_\_\_\_ Yes;   X   No

SECTION:

- 1-11E--1: Creation Of Special Improvement Districts
- 1-11E--2: Powers Of City
- 1-11E--3: Notice Of Intention
- 1-11E--4: Protests By Property Owners
- 1-11E--5: Contracts For Improvements
- 1-11E--6: When Assessments May Be Levied
- 1-11E--7: Assessment List And Board Of Equalization
- 1-11E--8: Ordinance Levying Assessments
- 1-11E--9: Prepayment Of Assessments
- 1-11E-10: Default In Payment
- 1-11E-11: Assessment Constitutes Lien Against Property
- 1-11E-12: Delinquent List
- 1-11E-13: Minimum Sale Price
- 1-11E-14: Sale
- 1-11E-15: Payment By City

1-11E-16: Special Improvement Guarantee Fund  
1-11E-17: Certificate Of Sale  
1-11E-18: Recording  
1-11E-19: Sale Of Certificate  
1-11E-20: Record Of Sales  
1-11E-21: Payment Of General Taxes  
1-11E-22: Procedure For Redemption  
1-11E-23: Certificate Of Redemption  
1-11E-24: City Recorder's Deed  
1-11E-25: Record Of Recorder's Deeds

1-11E-1: CREATION OF SPECIAL IMPROVEMENT DISTRICTS:

The city council shall have the power to create special improvement districts as provided by the Utah municipal improvement district act. In creating such districts, making assessments on property in such districts and financing the improvements for which such districts are created, the city council and other officers of the city shall be governed by the provisions of this article and shall follow all of the procedures and shall have all of the powers in addition thereto which are specified by the Utah municipal improvement district act. (Ord. 2005-03, 3-9-2005)

1-11E-2: POWERS OF CITY:

A. The city council shall have the power to make or cause to be made any one or more or a combination of the following improvements:

1. Establish grades and lay out, establish, open, extend and widen any street, sidewalk, alley or off street parking facility;
2. Improve, repair, light, grade, pave, repave, curb, gutter, sewer, drain, park and beautify any street, sidewalk, alley, or off street parking facility;
3. Construct, reconstruct, extend, maintain or repair bridges, sidewalks, crosswalks, driveways, culverts, sewers, storm sewers, drains, flood barriers and channels;
4. Construct, reconstruct, extend, maintain or repair lines, facilities and equipment (other than generating equipment) for street lighting purposes or for the expansion or improvement of a previously established municipally owned electrical distribution system to a district within the boundaries of the city;

5. Plant or cause to be planted, set out, cultivate and maintain lawns, shade trees or other landscaping;

6. a. Cover, fence, safeguard or enclose reservoirs, canals, ditches and watercourses; and

b. Construct, reconstruct, extend, maintain and repair waterworks, reservoirs, canals, ditches, pipes, mains, hydrants and other water facilities for the purpose of supplying water for domestic and irrigation purposes or either, regulating, controlling or distributing water for domestic or irrigation purposes, and regulating and controlling water and watercourses leading into the city;

7. Acquire, construct, reconstruct, extend, maintain or repair parking lots or other facilities for the parking of vehicles off street;

8. Acquire, construct, reconstruct, extend, maintain or repair any of the improvements authorized in this section for use in connection with an industrial or research park, except that this article does not authorize the use of city funds to pay the cost of buildings or structures used for industry or research;

9. Acquire, construct, reconstruct, extend, maintain or repair parks and other recreational facilities and libraries;

10. Remove any nonconforming, existing improvements in the areas to be improved;

11. Construct, reconstruct, extend, maintain or repair optional improvements;

12. Acquire any property necessary or advisable in order to make any of such improvements;

13. Make any other improvements now or hereafter authorized by any other law, the cost of which in whole or in part can properly be determined to be of particular benefit to a particular area within the city;

14. a. Construct and install all structures, equipment and other items; and

b. Do any other work as may be necessary or appropriate to complete any of such improvements in a proper manner; and

15. Conduct economic promotion activities.

B. n a district created for economic promotion activities, the city

council shall:

1. Spend at least seventy percent (70%) of any funds generated on economic promotion activities; and
2. Spend no more than thirty percent (30%) of any funds generated on administrative costs, including salaries, benefits, rent, travel and costs incidental to publications.

C. For the purpose of making and paying for all or a part of the cost of any of such improvements (including optional improvements), the city council may:

1. Create special improvement districts within the city;
2. Levy assessments on property within such a district which is benefited by the improvements;
3. Collect improvement revenues from those improvements; and
4. Issue interim warrants and special improvement bonds as provided in the Utah municipal improvement district act.

D. The city council shall not use the procedures outlined in this article to pay the cost of buildings or structures used for industry or research. (Ord. 2005-03, 3-9-2005)

#### 1-11E-3: NOTICE OF INTENTION:

Before a special improvement district is created, the city council shall give notice of its intention to make the improvements and to levy assessments to pay all or a part of the cost thereof. Such notice shall contain the information and be given in the manner required by the Utah municipal improvement district act. (Ord. 2005-03, 3-9-2005)

#### 1-11E-4: PROTESTS BY PROPERTY OWNERS:

A. 1. Any person who is the owner of property to be assessed in the special improvement district described in the notice of intention may, within the time designated in the notice, file, in writing, a protest to the creation of the special improvement district or make any other objections relating thereto.

2. The protest shall describe or otherwise identify the property owned by the person making the protest.

B. 1. On the date and at the time and place specified in the notice of intention, the city council shall, in open and public session, consider all protests so filed and hear all objections relating to the proposed special improvement district.

2. The city council may adjourn the hearing from time to time to a fixed future time and place.

3. After the hearing has been concluded and after all persons desiring to be heard have been heard, the city council shall consider the arguments and protests made.

4. The city council may:

a. Make deletions and changes in the proposed improvements; and

b. Make deletions and changes in the area to be included in the special improvement district as desirable or necessary to assure adequate benefits to the property in the district.

5. The city council may not provide for the making of any improvements that are not stated in the notice of intention nor for adding to the district any property not included within the boundaries of the district unless a new notice of intention is given and a new hearing held.

C. 1. a. After this consideration and determination, the city council shall adopt a resolution either abandoning the district or creating the district either as described in the notice of intention or with deletions and changes made as authorized in this section.

b. The city council shall abandon the district and not create the same if the necessary number of protests as provided in the Utah municipal improvement district act have been filed on or before the time specified in the notice of intention for the filing of protests after eliminating from the filed protests:

(1) Protests relating to property or relating to a type of improvement that has been deleted from the district; and

(2) Protests that have been withdrawn in writing before the conclusion of the hearing.

2. If less than the necessary number of protests are filed by the owners of the property to be assessed, the city council may create the special improvement district and begin making the improvements. (Ord. 2005-03, 3-9-2005)

1-11E-5: CONTRACTS FOR IMPROVEMENTS:

Except as otherwise provided in the municipal improvement district act, improvements in a special improvement district shall be made only under contract duly let to the lowest responsible bidder for the kind of service or material or form of construction which may be determined upon after notice has been given and bids received as provided in said act. The improvements may be divided into parts and separate contracts let for each part, or several such parts may be combined in the same contract. A contract may be let on a unit basis. (Ord. 2005-03, 3-9-2005)

1-11E-6: WHEN ASSESSMENTS MAY BE LEVIED:

Assessments for improvements in a special improvement district may be levied:

- A. At any time after all contracts for the making of the improvements have been let, the proper price for all property acquired to make the improvements has been plainly determined and the reasonable cost of any work to be done by the city has been determined; or
- B. For light service or park maintenance at any time after the light service or park maintenance has been commenced; or
- C. At any time after all of the improvements in the special improvement district are entirely completed and accepted; or
- D. For economic promotion activities, at any time after the district has been created. (Ord. 2005-03, 3-9-2005)

1-11E-7: ASSESSMENT LIST AND BOARD OF EQUALIZATION:

- A. Before an assessment is levied, an assessment list shall be prepared designating each parcel of property proposed to be assessed and the amount of the assessment apportioned to such property.
- B. 1. Upon completion of the assessment list, the city council shall:
  - a. Appoint a board of equalization and review consisting of three (3) or more members of the city council or, at the option of the city council, consisting of the city engineer, city recorder and city attorney; and
  - b. Give public notice of the completion of the assessment list and of

the time and place of the holding of public hearings relating to the proposed assessments in accordance with the Utah municipal improvement district act.

2. If the board of equalization and review consists of other than members of the city council, appeal from a decision of the board of equalization and review shall be taken to the city council by filing a written notice of appeal in the office of the city recorder within fifteen (15) days from the date the board's final report to the city council is mailed to the affected property owners as provided in subsection G of this section.

C. 1. The notice shall be posted in at least three (3) public places as required by law.

2. The notice shall be posted at least twenty (20) and not more than thirty five (35) days prior to the date the board will begin its hearings.

D. Not later than ten (10) days after the first posting of the notice, the notice shall be mailed, postage prepaid:

1. Addressed to each owner of property to be assessed within the special improvement district at the last known address of the owner, using for this purpose the names and addresses appearing on the last completed real property assessment rolls of the county; and

2. Addressed to "owner" at the street number of each piece of improved real property to be assessed. If a street number has not been assigned, then the post office box, rural route number, or any other mailing address of the improved property shall be used for the mailing of the notice.

E. The board of equalization and review shall convene at the time and place specified in the notice. Hearings shall be held on not less than three (3) consecutive days for at least one hour between nine o'clock (9:00) A.M. and nine o'clock (9:00) P.M. as specified in the notice. The hearings may be adjourned or recessed from time to time to a specific place and a specific hour and day until the work of the board shall have been completed. At each hearing, the board shall hear arguments from any person who believes himself to be aggrieved, including arguments relating to the benefits accruing to any tract, block, lot or parcel of property in the district or relating to the amount of the proposed assessment against that tract, block, lot or parcel.

F. 1. After the hearings have been completed, the board shall consider all facts and arguments presented and shall make such corrections in



any proposed assessment as it may consider just and equitable. These corrections may eliminate one or more pieces of property or may increase or decrease the amount of the assessment proposed to be levied against any piece of property.

2. If the corrections result in an increase of any proposed assessment, before approving the corrected assessment list, the board shall cause notice of such increase and hear objections thereto in accordance with the requirements of the Utah municipal improvement district act before approving the corrected assessment list.

G. 1. After all corrections have been made and all hearings, including hearings under subsection F of this section, have been held, the board shall report to the city council its findings that each piece of property within the special improvement district will be benefited in an amount not less than the assessment to be levied against such property, and that no piece of property listed on the assessment will bear more than its proportionate share of the cost of the improvement.

2. The board shall cause to be mailed a copy of the board's final report to each owner of property who objected at the hearings of the board to the assessment proposed to be levied against his property.

3. The findings of the board, when approved by the city council or after passage of time for appeal and review by the city council, shall be final and, except as provided in subsection B2 of this section, no appeal may be taken therefrom.

4. After receipt of the report from the board and the running of the appeal period provided in subsection B2 of this section, if applicable, the city council may proceed with the levy of the assessments.

H. Each person whose property is subject to assessment and who fails to appear before the board of equalization and review to raise his objections to the levy of the assessment shall be deemed to have waived all objections to the levy except the objection that the city council failed to obtain jurisdiction to order the making of the improvements which the assessment is intended to pay. (Ord. 2005-03, 3-9-2005)

#### 1-11E-8: ORDINANCE LEVYING ASSESSMENTS:

Assessments shall be levied by ordinance. The assessment ordinance shall conform to all provisions of the Utah municipal improvement district act and may contain any provision authorized by that act. (Ord. 2005-03, 3-9-2005)

1-11E-9: PREPAYMENT OF ASSESSMENTS:

A. Assessments payable in installments may be paid prior to the due date of any such installment as provided in this section but not otherwise.

B. The whole or any part of the assessment may be paid without interest within fifteen (15) days after the ordinance levying the assessment becomes effective. If the assessment is paid in part, the unpaid balance may, at the discretion of the city council, be payable either in substantially equal installments of principal and interest over the period of time installments are payable as provided in the assessment ordinance.

C. After such fifteen (15) day period and if the ordinance levying the assessment so provides, all unpaid installments of assessments levied against any piece of property (but only in their entirety) may be paid prior to the dates on which they become due. Any such prepayment must include an additional amount equal to the interest which would accrue on the assessment to the next succeeding date on which interest is payable on any special improvement bonds issued in anticipation of the collection of the assessments, plus such additional amount as, in the opinion of the city council or of any officer of the city designated by the city council, is necessary to assure the availability of money to pay interest on the special improvement bonds as interest becomes due, plus any premiums which may become payable on redeemable bonds which may be called in order to utilize the assessments thus paid in advance. (Ord. 2005-03, 3-9-2005)

1-11E-10: DEFAULT IN PAYMENT:

A. When an assessment is payable in installments and a default occurs in the payment of any installment when due, the whole of the unpaid principal and interest shall become due and payable immediately, and subject to collection as provided in this article. Interest shall accrue and be paid on all amounts delinquent or accelerated and immediately due and payable and shall bear interest at a rate established by the city council until the next succeeding date after payment or collection on which interest is payable on any bonds issued. Costs of collection approved by the city council or required by law shall be charged and paid on all amounts declared to be delinquent or accelerated and immediately due and payable.

B. Any interest assessed for or costs of collection charged under authority of this section on delinquent balances of principal and interest shall be the same as are applied to delinquent real property

taxes for the year in which the balance of the fee or charge became delinquent.

C. Notwithstanding the provisions of subsection A of this section, if before the final date that payment may be legally made under a final sale or foreclosure of property to collect delinquent assessment installments, the owner pays the amount of all unpaid installments that are past due and delinquent with interest at the rate determined by the city council to date of payment plus all approved or required costs, the owner shall then be restored to the right to pay in installments in the same manner as if default had not occurred. (Ord. 2005-03, 3-9-2005)

#### 1-11E-11: ASSESSMENT CONSTITUTES LIEN AGAINST PROPERTY:

An assessment or any part or installment of it, any interest accruing on the assessment, and the penalties and cost of collection of the assessment, shall constitute a lien on and against the property upon which the assessment is levied on the effective date of the ordinance levying the assessment. This lien shall be superior to the lien of any trustee, mortgage, mechanics' or material mans' lien, or other encumbrance, and shall be equal to the lien for general property taxes. Such lien shall apply without interruption, change in priority, or alteration in any manner to any reduced payment obligations and shall continue until the assessment, reduced payment obligation, and any interest, penalties and costs on them are paid, notwithstanding any sale of the property for or on account of a general property tax, special tax, or other assessment or the issuance of an auditor's deed, an assignment of interest by the county, or a sheriff's certificate of sale or deed. (Ord. 2005-03, 3-9-2005)

#### 1-11E-12: DELINQUENT LIST:

The city treasurer, as directed from time to time by the city council, shall prepare a list of all property upon which the assessment remains due and unpaid and cause the same to be posted in at least three (3) public places in the city and published one time in a newspaper having general circulation in the city. Said list shall contain a description of the property, the owner's name, if known, and if not, the words "unknown owner", the amount due on each separate parcel, exclusive of costs, and shall be accompanied by a notice of sale substantially in the following form:

*Notice is hereby given that assessments for special improvements are due and unpaid in the amounts and upon the lands described herein.*

*Unless the assessments, interests, and costs of advertising, are paid on or before (here fix a day at least 10 days after the date of posting and publication), the property will on said day be sold, for the amounts of the delinquent assessment, interests and costs against the same, at the **[this would usually be the front door of city hall, where do you suggest?]**, beginning at the hour of twelve o'clock (12:00) noon of said day, and continue until all of the property has been sold. (Ord. 2005-03, 3-9-2005)*

If retained, the city will need to fill in the above text.

Response: This section won't be retained.

1-11E-13: MINIMUM SALE PRICE:

In no case shall any land be sold for less than the amount of the delinquent assessment against the same, interest, the costs of advertising and expense of sale. (Ord. 2005-03, 3-9-2005)

1-11E-14: SALE:

On the day fixed for sale, the city treasurer shall appear at the hour and place stated in the notice of sale and offer the land for sale at public auction to the highest responsible bidder for cash. The offer of sale shall be substantially in the following language:

*There is delinquent upon (here describe the parcel of land being sold) an assessment amounting to \$\_\_\_\_\_, including interest, with costs and expenses of \$\_\_\_\_\_. What is the smallest portion of this property which you will take and pay the assessment, interest, costs and expenses? (Ord. 2005-03, 3-9-2005)*

1-11E-15: PAYMENT BY CITY:

In case no bid at least equal to the amount of the assessment, interest, cost of advertising and expense of sale on each separate parcel is received, the land shall be deemed sold to the city for the amount of the assessment, interest and cost, and such sale shall have the same effect as if made to an individual. Any land sold to the city shall be paid for out of the special improvement guarantee fund. Payment shall be made at the time and in the manner specified by the Utah municipal

improvement district act. (Ord. 2005-03, 3-9-2005)

1-11E-16: SPECIAL IMPROVEMENT GUARANTEE FUND:

The city council shall create, replenish and maintain a special improvement fund as required by law. (Ord. 2005-03, 3-9-2005)

1-11E-17: CERTIFICATE OF SALE:

When land is sold for a delinquent assessment, the treasurer shall make, sign, acknowledge and deliver a certificate of sale which shall be substantially in the following form:

*CITY OF WOODLAND HILLS  
Treasurer's Office  
CERTIFICATE OF SALE FOR DELINQUENT  
ASSESSMENTS  
IMPROVEMENT DISTRICT NUMBER \_\_\_\_\_*

*THIS CERTIFIES, that on \_\_\_\_\_, 20\_\_\_\_, the undersigned, as city treasurer and collector of special assessments for city of Woodland Hills, Utah, sold to \_\_\_\_\_ subject to redemption as provided by law, the following land in Woodland Hills, Utah, for delinquent assessments against the same in the name of \_\_\_\_\_ (description of land from assessment list):*

*ASSESSMENT AND COSTS*

*Amount of Assessment: \$ \_\_\_\_\_  
Interest to date of sale: \$ \_\_\_\_\_  
Advertising: \$ \_\_\_\_\_  
Expense of sale: \$ \_\_\_\_\_  
Certificate of sale: \$ \_\_\_\_\_  
Total: \$ \_\_\_\_\_*

*Dated: \_\_\_\_\_*

\_\_\_\_\_  
*/s/ City Treasurer and Collector  
of Special Assessments*

*(Acknowledgment in statutory form)*

(Ord. 2005-03, 3-9-2005)

1-11E-18: RECORDING:

When property is sold to the city, it shall be the duty of the city treasurer to see that such certificate is properly recorded in the office of the county recorder. (Ord. 2005-03, 3-9-2005)

1-11E-19: SALE OF CERTIFICATE:

The city may sell and assign any certificate of sale upon payment to the city of the amount mentioned in said certificate, together with such interest as the city council may determine from date of sale to date of assignment, and all monies received therefrom shall be paid into such fund as required by law or by the assessment ordinance. (Ord. 2005-03, 3-9-2005)

1-11E-20: RECORD OF SALES:

The city treasurer shall keep a record of all sales of land describing therein the several parcels of land sold, the amount of the assessment, interest, costs and expenses, the part of each tract sold, to whom sold, and the date of sale. Whenever any portion of the land sold shall be redeemed, the fact of redemption shall be entered opposite the description of the land in the assessment sale record. (Ord. 2005-03, 3-9-2005)

1-11E-21: PAYMENT OF GENERAL TAXES:

The city council may from time to time as it deems necessary direct the city treasurer to pay the general taxes on any land sold to the city for delinquent assessments, or redeem such property where it has been sold for delinquent general taxes. The city treasurer shall enter in the record of sales the date and amount of any taxes so paid. Said amount shall draw interest at the rate applied to delinquent property taxes from the date of payment until repaid and shall be included in the amount required to be paid for redemption of such land. (Ord. 2005-03, 3-9-2005)

1-11E-22: PROCEDURE FOR REDEMPTION:

Land sold for delinquent assessments may be redeemed by any person interested therein at any time within three (3) years after the date

of sale by paying to the city treasurer, for the use of the purchaser, the amount paid by such purchaser, plus costs and expenses of the sale and redemption, together with interest at the rate of ten percent (10%) per annum on the whole from the date of sale to the date of redemption. If land has been sold to the city and general taxes thereon have been paid by the city, it shall be necessary also for the redemptioner to pay the amount of such general tax with interest thereon from the date of payment to the date of redemption at the rate applied to delinquent real property taxes. When two (2) or more parties are interested in land that has been sold for delinquent assessments, a party may redeem the land in which he is interested by payment of that proportion of the assessment, interest and costs which his land bears to the whole parcel sold. (Ord. 2005-03, 3-9-2005)

#### 1-11E-23: CERTIFICATE OF REDEMPTION:

When any land is redeemed, the city treasurer shall make the proper entry in the record of sale and issue a certificate of redemption duly acknowledged by the city treasurer. (Ord. 2005-03, 3-9-2005)

#### 1-11E-24: CITY RECORDER'S DEED:

If any land is not redeemed within the time and in the manner provided in this article, the city recorder shall, on presentation of the certificate of sale, make, acknowledge and deliver a deed conveying the property to the purchaser. It shall be the duty of the city treasurer to present to the city recorder the certificate of sale for land sold to the city and to see that deeds to the city are properly recorded in the office of the county recorder. Deeds issued by the city recorder shall recite the purpose for which the assessment was levied, the year in which the levy was made, the day and year of sale, the amount for which the land was sold, a description of the land sold, and the name of the purchaser. The deed shall be executed and acknowledged by the city recorder. (Ord. 2005-03, 3-9-2005)

#### 1-11E-25: RECORD OF RECORDER'S DEEDS:

The city recorder shall keep on file in his office a record of all deeds issued by him which shall be a facsimile copy of the deeds so issued and which shall be indexed in the name of the party whose property was sold and also in the name of the individual to whom the deed was issued. (Ord. 2005-03, 3-9-2005)

## CHAPTER 11

### REVENUE AND TAXATION

#### ARTICLE F. CLAIMS AGAINST CITY

For statute authority, see UCA § 63G-7-701 et seq.

#### SECTION:

1-11F-1: Claims Against City

1-11F-1: CLAIMS AGAINST CITY:

Every person asserting a claim against the city shall comply in all respects with the provisions of the Utah governmental immunity act. Any such claim received by the city shall be submitted to the city's liability insurance carrier for review and handling. The claimant shall provide such additional information as may be requested by the insurance carrier. A claim referred back to the city by the insurance carrier on the basis that there is no insurance coverage for the claim, shall be referred to the city council for review and disposition. The city council shall have full authority to deny, compromise and settle, or approve any such claim. (Ord. 2005-03, 3-9-2005)

## CHAPTER 12

### PURCHASING

For statute authority, see UCA §§ 10-6-122, 63G-6-101 et seq.

We have presented the following 2 chapters relative to purchasing as follows:

1st Chapter: Derived from ordinance 2005-02, 1-12-2005

2nd Chapter: Derived from ordinance 2006-04, 2-28-2006 (Note the ordinance states it is "adding" chapter 2-17, even though said chapter already existed)

There is also an amendment by ordinance 2012-07, section 2-17-107(8), which corresponds with the first chapter. If you use the second chapter, the numbering is off.

The city will need to determine which legislation is applicable.

**Response: The city will nullify ordinance 2012-07 entirely; Ordinance 2006-04 is in**



**the process of being amended – the text as written in 1-12-2 is fine.**

SECTION:

- 1-12-1: Purchasing Agent
- 1-12-2: Authority Of Purchasing Agent
- 1-12-3: Requisitions And Estimates
- 1-12-4: Prohibition Of Interest
- 1-12-5: Gifts And Rebates
- 1-12-6: Competitive Bidding
- 1-12-7: Formal Contract Procedure
- 1-12-8: Open Market Procedure
- 1-12-9: Emergency Purchases

1-12-1: PURCHASING AGENT:

There is hereby created the office of purchasing agent. The mayor shall serve as purchasing agent or the mayor may, with the consent of the city council, appoint some other qualified person to act as purchasing agent. The purchasing agent shall be under the supervision of and report to the mayor. (Ord. 2005-02, 1-12-2005)

1-12-2: AUTHORITY OF PURCHASING AGENT:

The purchasing agent shall have the power and it shall be his duty:

A. To purchase or contract for supplies and contractual services needed by any city department in accordance with the purchasing procedures prescribed by this chapter, and such rules and regulations as the purchasing agent shall adopt, and such other rules and regulations as shall be prescribed by the mayor and city council. Except as provided herein, no city officer shall purchase any supplies or make any contract within the purview of this chapter other than through or with the consent of the purchasing agent. Any purchase ordered or contract made contrary to the provisions of this chapter shall not be approved and the city shall not be bound thereby.

B. In addition to any other powers and duties conferred by this chapter, the purchasing agent shall:

1. Act to procure for the city the highest quality in supplies and contractual services at least expense to the city.

2. Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases.

3. Establish and amend, when necessary, all rules and regulations authorized by this chapter and any others necessary to its operation.

4. Keep informed of developments in the field of purchasing, prices, market conditions and new products and secure for the city the benefits of research done in the ~~file~~ field of purchasing by other governmental jurisdictions, national technical societies, trade associations having national recognition, and by private businesses and organizations.

Suggest omission of ~~strikeout~~ text and inclusion of underlined. Agree?

Response: Yes ☐ ~~X~~ ☒, No ☐, or change as follows:

5. ~~Prescribed~~ and maintain such forms as the purchasing agent shall find reasonably necessary to the operation of this chapter.

Suggest omission of ~~strikeout~~. Agree?

Response: Yes ☐ ~~X~~ ☒, No ☐, or change as follows:

6. Prepare and adopt a standard purchasing nomenclature for city departments and suppliers.

7. Exploit the possibilities of buying in bulk so as to take full advantage of discounts.

8. Procure for the city all tax exemptions to which it is entitled.

9. Cooperate with the finance director for the maximum efficiency in budgeting and accounting.

10. Have authority to declare vendors who default on their quotations irresponsible bidders and to disqualify them from doing business with the city for a stated period of time.

C. The purchasing agent may:

1. Classify all supplies used by various departments of the city.
2. Adopt as standards the minimum number of qualities, sizes and varieties of supplies consistent with the operation of the city.
3. Prepare and adopt written specifications of all such standard supplies.
4. Exempt any city department from use of any supply described in such standard specification.
5. Consult with department heads and other officers of the city to determine their requirements. (Ord. 2005-02, 1-12-2005)

1-12-3: REQUISITIONS AND ESTIMATES:

All city departments shall file with the purchasing agent detailed requisitions of their requirements in supplies and contractual services in such manner, at such times and for such future periods as the purchasing agent shall prescribe. The purchasing agent shall examine each such requisition or estimate and shall have the authority to revise it as to quantity, quality or estimated cost. (Ord. 2005-02, 1-12-2005)

1-12-4: PROHIBITION OF INTEREST:

Any purchase order or contract covered by this chapter in which the purchasing agent or any officer or employee of the city is financially interested, directly or indirectly, shall be void, except that, before execution of a purchase order or contract, the city council shall have authority to waive compliance with this section when it finds such waiver to be in the best interests of the city. (Ord. 2005-02, 1-12-2005)

1-12-5: GIFTS AND REBATES:

The purchasing agent and every other officer and employee of the city is prohibited from accepting, directly or indirectly, from any person, company, firm or corporation to which any purchase order or contract is, or might be, awarded, any rebate, gift or anything of value whatsoever, except where given for the use and benefit of the city. (Ord. 2005-02, 1-12-2005)

1-12-6: COMPETITIVE BIDDING:

All purchase of, and contracts for, supplies and contractual services, except as otherwise specifically provided in this chapter, shall be based wherever possible on competitive bids. (Ord. 2005-02, 1-12-2005)

1-12-7: FORMAL CONTRACT PROCEDURE:

A. Required: All supplies and contractual services, except as otherwise provided herein, when the estimated cost thereof shall exceed the amount specified as the bid limit in Utah Code Annotated section 11-39-101, shall be purchased by formal written contract from the lowest and best bidder as provided in this section.

B. Notice: Notice inviting bids or proposals shall be published at least once in a newspaper of general circulation in the city at least five (5) days preceding the last day set for the receipt of bids or proposals. The notice shall include a general description of the articles or services to be purchased, shall state where bid blanks, if any, and specifications may be obtained, and the time and place for opening bids. The purchasing agent may determine to publish the notice on other publications in order to obtain adequate bids or proposals.

C. Additional Solicitations: The purchasing agent shall also solicit bids or proposals from all responsible bidders who have requested their names to be added to a bidders list maintained by the purchasing agent by sending them a copy of the notice required by subsection B of this section. Solicitations made pursuant to this subsection shall be limited to those on the bidders list who supply commodities or services that are similar in character to the commodities or services that are the subject of the solicitations.

D. Posting Notice: The purchasing agent shall also advertise all requests for bids or proposals by posting a copy of the notice in a public place in the city.

E. Deposits: When required by law, and when otherwise deemed advisable by the purchasing agent, bid deposits shall be required.

F. Submittal; Opening: Sealed bids or proposals shall be submitted to the purchasing agent and shall be identified as such on the outside. Bids or proposals shall be opened in public at the time and place stated in the notice. A tabulation of all bids shall be posted for public inspection.

G. Rejection: The purchasing agent may reject all bids or proposals, or parts thereof, when the interest of the city will be served thereby. (Ord. 2005-02, 1-12-2005)

H. Limited Award Authority; Exception: The purchasing agent shall not award any contract in an amount of five thousand dollars (\$5,000.00) or greater, except on specific approval of that award by the city council. The only exception to this will be roads/streets where the funds have been previously budgeted for and allocated for this purpose. In this case, the amount will twenty thousand dollars (\$20,000.00) and the purchasing agent will notify the city council of the exception immediately. (Ord. 2012-07, 10-23-2012)

I. Award To Lowest Responsible Bidder: Contracts shall be awarded to the lowest responsible bidder. In determining the lowest responsible bidder, in addition to price, the purchasing agent or city council, as applicable, shall consider:

Suggest inclusion of underlined. Agree?

Response: Yes   X  , No       , or change as follows:

1. The ability, capacity and skill of the bidder to perform the contract or provide the service required.
2. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference.
3. The character, integrity, reputation, judgment, experience and efficiency of the bidder.
4. The quality of performance of previous contracts or services.
5. The previous and existing compliance by the bidder with laws, ordinances and regulations relating to the contract or service.
6. The sufficiency of the financial resources and ability of the bidder to perform the contract or service.
7. The quality, availability and adaptability of the supplies or contractual services to the particular use required.
8. The ability of the bidder to provide future maintenance and service for the used of the subject of the contract.

9. The number and scope of any conditions attached to the bid or proposal.

J. Statement Required If Award Not To Lowest Bidder: If a contract is not awarded to the lowest bidder, a full and complete statement of the reasons for awarding it to another bidder shall be prepared and filed with the documents related to the contract.

K. Identical Bids: If all bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to a local bidder, or if there is no local bidder, to one of the bidders by lot.

L. Bond Required: The city shall require a performance and payment bond when required by law and when otherwise deemed necessary by the purchasing agent. The bond shall be in such amount as required by law or such larger amount as the purchasing agent determines to be necessary to protect the interest of the city.

M. Statute Requirements: The city shall comply with all requirements of Utah Code Annotated sections 11-39-101 through 11-39-105. To the extent of any conflict in the requirements of this section and the requirements of state law, the city shall comply with state law. (Ord. 2005-02, 1-12-2005)

#### 1-12-8: OPEN MARKET PROCEDURE:

All purchases of supplies and contractual services, when the estimated cost thereof does not exceed the bid limit specified in section 1-12-7 of this chapter, shall be made in the open market without formal bid procedure specified by section 1-12-7 of this chapter. All open market purchases shall, whenever possible, be based on at least three (3) competitive bids and shall be awarded to the lowest responsible bidder in accordance with the standards set forth in subsection 1-12-7I of this chapter. The purchasing agent shall solicit bids or proposals by mail or telephone request to prospective bidders or by posted public notice, as the purchasing agent deems in the best interest of the city. The purchasing agent shall not award any contract pursuant to this section in an amount of five thousand dollars (\$5,000.00) or greater except on specific approval of that award by the city council. (Ord. 2005-02, 1-12-2005)

#### 1-12-9: EMERGENCY PROCEDURE:

In case of an apparent emergency which requires immediate purchase of supplies or contractual services, the mayor may authorize the purchasing agent to secure by the open market procedure of section 1-12-8 of this chapter, at the lowest obtainable price, any supplies or contractual services regardless of the amount of expenditure. A full report of the circumstances of an emergency purchase shall be filed by the purchasing agent with the city council and shall be open to public inspection. (Ord. 2005-02, 1-12-2005)

## **TITLE 2**

### CHAPTER 1

#### REVIEW BOARD

##### SECTION:

- 2-1-1: Created; Membership
- 2-1-2: Organization
- 2-1-3: Duties

##### 2-1-1: CREATED:

There is hereby created a review board of three (3) members. Each member of the board shall be a resident of the city appointed by the mayor with the advice and consent of the city council. Each member shall serve for a term of three (3) years; provided, that initial appointments to the board shall be for such shorter terms as required so that the term of one member expires each year. Any member may be removed by the mayor or city council for any reason, with or without cause. Appointments to fill a vacancy on the board shall be for the remaining term. (Ord. 2006-07, 5-23-2006)

##### 2-1-2: ORGANIZATION:

The review board shall:

- A. Chairperson: Choose one of its members as chairperson for such term as the board may determine;
- B. Vice Chairperson: As it determines to be appropriate, choose a vice chairperson and other officers;
- C. Rules For Proceedings: Adopt such rules for its own proceedings as it deems appropriate. (Ord. 2006-07, 5-23-2006)

### 2-1-3: DUTIES:

The review board shall have the following duties:

A. Review Claims: The board shall review a claim against the city regarding an improper or excessive fee or amount charged by the city. The board shall consider a matter only when the matter is referred to it by the mayor or city council. The mayor and city council shall not be required to refer any matter to the board; provided, however, neither the mayor nor city council will refer any matter to the board which: 1) the mayor or city council intends to refer or has referred to the city liability insurance carrier for review or adjustment; or 2) involves a building permit, impact, subdivision or other fee related to zoning or land use or development. The board shall give each claimant an opportunity to appear before the board and present the claim. The board may also request officers or agents of the city to provide information regarding the claim.

B. Summary: The board shall, in writing, within thirty (30) days, after a claim is referred to it, make summary of the claim and a written recommendation to the city council regarding whether the claim should be denied or granted or partly denied and partly granted.

C. Consideration By City Council: The city council shall consider the recommendation of the board but is not required to adopt the recommendation. (Ord. 2006-07, 5-23-2006)

## CHAPTER 2

### PLANNING COMMISSION

For statute authority, see UCA § 10-9a-301 et seq.

We question if the city would prefer this legislation to be located in the zoning title since the authority falls within the municipal land use, management and development act. Please advise.

**Response: Please move this legislation to the zoning title**

### SECTION:

2-2-1: Created; Membership



2-2-2: Term Of Office; Removal; Vacancy  
2-2-3: Organization

2-2-1: CREATED; MEMBERSHIP:

A. Number; Quorum: There is hereby created a planning commission. The planning commission shall consist of five (5) regular members and one alternate member to be appointed by the mayor with the approval of the city council. The alternate member may attend all meetings of the commission and participate in any discussion but may not vote on any matter except when the alternate member's attendance is necessary to provide a quorum of three (3) members at the meeting.

B. Membership Requirements: Each member of the planning commission shall be a resident of the city. Members shall be selected without regard to political affiliation and shall serve according to the bylaws of the planning commission. (Ord. 2007-07, 4-25-2007)

2-2-2: TERM OF OFFICE; REMOVAL; VACANCY:

A. Members: Each regular member of the planning commission shall serve for a term of three (3) years and until his or her successor is appointed; provided, however, that the first appointments shall be for such terms that the term of one or two (2) members expires each annually thereafter. The term office for each regular member shall commence on February 1 in the year in which such member is appointed.

B. Alternate Member: The alternate member of the planning commission shall serve for a term of one year and until his or her successor is appointed. The term of office for the alternate member shall commence on February 1 in the year in which such member is appointed.

C. Removal: The city council may remove any member of the planning commission for cause, and after public hearing, if a hearing is requested by the member the city council proposes to remove.

D. Vacancies: Vacancies on the planning commission shall be filled for the unexpired term in the same manner as the original appointment. (Ord. 2007-07, 4-25-2007)

2-2-3: ORGANIZATION:

A. Chairperson: At its first meeting in February of each year, the planning commission shall elect one of its regular members as

chairperson. The chairperson shall serve for a term of one year and until a successor is chosen in the same manner. A vacancy in the chairmanship shall be filled for the unexpired term by election at the next meeting of the planning commission. A person may be elected to serve consecutive terms as chairperson.

B. Vice Chairperson; Rules: The planning commission may also elect a vice chairperson and shall adopt rules for its own organization and transaction of business. (Ord. 2007-07, 4-25-2007)

## Chapter 3

### CITY COMMITTEES

#### SECTION:

#### 2-3-1: ARCHITECTURE REVIEW COMMITTEE

#### 2-3-2: SUPPORT COMMITTEES

#### 2-3-1: ARCHITECTURE REVIEW COMMITTEE

A. The city shall establish an Architecture Review Committee (ARC) consisting of volunteer residents recommended by the Mayor and city council and approved by the city council and shall serve at the Mayor's pleasure. The committee shall have in number that which is sufficient to perform their assigned functions and taskings as determined by the city council. The ARC has the responsibility to review all city building site plans as assigned by the Public Works Director to ensure they conform to the city ordinances and building standards.

B. The Mayor and city council shall designate one of the committee members to serve as the chairperson. The chairperson is responsible to ensure that the required reviews take place in a timely manner as determined by the Public Works Director and report the results of the reviews to the Public Works Director. The ARC is not a deciding committee but an assessment and recommending committee only. However, if the ARC is aware of conflicts between city ordinances and building standards with city subdivision CC&Rs, they should bring that information to the attention of the Public Works Director as part of their site plan review process.

#### 2-3-2: SUPPORT COMMITTEES

A. The city is authorized to establish committees to give guidance and make recommendations and otherwise assist the city's elected officials perform their designated duties. The committees shall consist of

volunteer residents recommended by the Mayor and city council and approved by the city council. Committee members shall serve at the pleasure of the Mayor. The committees shall have in number that which is sufficient to perform their assigned functions and taskings as determined by the city council.

B. Each committee will have one individual designated by the city council to serve as the committee chairperson. That chairperson can be a city council member but does not need to be. If they are not a city council member, then there will be an assigned city council member to oversee the actions and activities of the committee and will serve as a committee member. The city council can call from time to time for a report from the committee on whatever taskings or assignments the committee might have. These committees will have no decision-making authority but are put in place to analyze, review, make assessments, review alternatives, etc., and make recommendations to the city council from their reviews, findings and assessments. Any authored reports shall have the approval of the committee chairperson before it is presented to the city council. If there are differing views to the particular topic, all views should be included in the report so the city council has all information available to it upon which to make sound and informed decisions.

### **TITLE 3 (N/A)**

### **TITLE 4**

#### **CHAPTER 1**

#### **NUISANCES**

**For statute authority, see UCA § 10-11-1 et seq.**

#### **SECTION:**

- 4-1--1: Findings
- 4-1--2: Public Nuisance
- 4-1--3: Author Of Nuisance
- 4-1--4: Declaration Of Nuisances
- 4-1--5: Attractive Nuisances
- 4-1--6: Inoperative Motor Vehicles
- 4-1--7: Dangerous Buildings Abatement
- 4-1--8: Use Of State Abatement Statutes
- 4-1--9: Inspector
- 4-1-10: Notice
- 4-1-11: Appeal Hearing

4-1-12: Proof Of Service  
4-1-13: Abatement By City  
4-1-14: Statement Of Expenses  
4-1-15: Failure To Make Payment  
4-1-16: Collection  
4-1-17: Criminal Penalty

4-1-1: FINDINGS:

The city council finds that deterioration and dilapidation of buildings, presence of trash, rubbish, debris, deleterious objects, and conditions harmful to health or to quiet and peaceful enjoyment of property, and other conditions constituting or contributing to nuisances as hereinafter defined, are injurious to the public health, safety, comfort and welfare of the residents of the city. Under the authority granted by state law, the city council adopts this chapter to declare what is a nuisance and provide for the removal and abatement of such nuisances. (Ord. 2005-01, 1-13-2005)

4-1-2: PUBLIC NUISANCE:

A. A public nuisance is a crime against the order and economy of the city and consists in unlawfully doing any act or omitting to perform any duty, which act or omission:

1. Annoys, injures or endangers the comfort, repose, health or safety of three (3) or more persons;
2. Offends public decency;
3. Unlawfully interferes with, obstructs, or tends to obstruct, or renders dangerous for passage, any lake, stream, canal or basin, or any public park, square, street or highway;
4. Is a nuisance, as defined in Utah Code Annotated section ~~78-38-9~~ 76-10-801 et seq; or

**Sterling has updated the above statute reference.**

5. In any way renders three (3) or more persons insecure in life or the use of property.

B. An act which affects three (3) or more persons in any of the ways

specified in this section is still a nuisance regardless of the extent to which the annoyance or damage inflicted on individuals is unequal.

C. Every person who maintains or commits any public nuisance, or who wilfully omits to perform any legal duty relating to the removal of a public nuisance, is guilty of a class B misdemeanor and may be ~~punished by fine and imprisonment as provided by state law for a class B misdemeanor~~ subject to penalty as provided in section 1-4-1 of this code.

For consistency, suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes ☒ X ☐ No ☐, or change as follows:

D. The city attorney is authorized to institute an action in the name of the city to abate a public nuisance. (Ord. 2005-01, 1-13-2005)

#### 4-1-3: AUTHOR OF NUISANCE:

When a nuisance exists upon property, and is the outgrowth of the usual, natural or necessary use of the property, the landlord thereof, 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 authors thereof, and shall be equally liable therefor; but where such nuisance shall arise from the unusual or unnecessary use to which such property may be put, or from business use to which such property may be put, or from business conducted thereon, then the occupants and all other persons contributing to the contrivance or continuance of such nuisance shall be deemed the authors thereof. Every person, either owner, agent or occupant, having aided in creating or contributing to a nuisance, or who may support, continue or retain any of them, is subject to the penalty provided in this chapter.

#### 4-1-4: DECLARATION OF NUISANCES:

A. Any item, thing, manner or condition whatsoever that is dangerous to human life or health, or renders soil, air, water or food impure or unwholesome, is considered a nuisance.

B. It shall be unlawful to cause, create, maintain or be the author of a nuisance within the city. Other nuisances are and shall include, but shall not be limited to, the following:

1. Befouling water in any spring, stream, well or water source supplying water for culinary purposes;
2. Allowing any wastewater disposal system to become a menace to health or a source of odor;
3. Permitting any garbage container to remain on premises when it has become unclean or offensive;
4. Allowing garbage, litter, filth or refuse of any nature to accumulate within or upon any yard or area except when it is temporarily deposited for immediate removal;
5. 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. Discharging or placing any offensive water, liquid waste or refuse of any kind into any road, wash or any natural watercourse; or upon any vacant lot when continued discharge will render the place of discharge offensive or likely to become so;

Suggest omission of ~~strikeout~~ text and inclusion of underlined. Agree?

Response: Yes ☒ X ☐, No ☐, or change as follows:

7. Keeping or collecting any stale or putrid grease or other offense matter;
8. Having or keeping on any premises any fly or mosquito producing condition;
9. Failing to discontinue use of, clean out or disinfect any septic tank or other wastewater disposal system within thirty (30) days after notice from the inspector appointed as provided in section 4-1-9 of this chapter, or his designee;

Suggest inclusion of underlined. Agree?

Response: Yes ☒ X ☐, No ☐, or change as follows:

10. Permitting any lot or excavation to become the repository of stagnant water or any decaying or offensive substance;

11. Obstructing or tending to obstruct or interfere with or render dangerous for passage any road, lake, stream, drainage, canal or basin, or any public park, without first obtaining permission of the city council;

12. Depositing or allowing to remain upon or in any street, road, ditch, gutter, public place, private premises, vacant lot, watercourse, lake, spring or well, any garbage, waste matter, animal byproducts, dead animals, decaying vegetable matter, or organic waste of any kind;

13. Allowing garbage, waste matter, manure, rubbish or other refuse, coal, wood, stones, crushed rock, earth or sand to fall and remain in a public street; or permitting or allowing any vehicle loaded with garbage, waste matter, manure, rubbish or other refuse of any kind to remain standing upon any public street any longer than is necessary for loading and transporting the same;

14. Allowing open fires without a permit;

Suggest inclusion of underlined. Agree?

Response: Yes    **X**   , No       , or change as follows:

Also, does the city desire to include legislation stating the permit requirements (i.e., the department issuing the permit, etc.)?

Response: **No**

15. Permitting any condition which emits an offensive odor;

16. Constructing or using any toilet or sewer facility, or failing to maintain the same, in accordance with applicable ordinances and regulations;

17. Blocking or permitting blocking of any drainage system, canal, ditch, conduit or other watercourse of any kind or nature, natural or artificial, so as to cause water to back up and overflow therefrom or

to become unsanitary;

18. Keeping, depositing on or scattering over any premises any of the following:

a. Lumber for a period of more than thirty (30) days;

b. Junk, trash or debris;

c. Abandoned, discarded or unused objects or equipment, such as vehicles, furniture, appliances, cans, crockery, bottles, boxes, paper, straw, hay or sawdust. (Ord. 2005-01, 1-13-2005)

#### 4-1-5: ATTRACTIVE NUISANCES:

A. It shall be unlawful to cause, create, maintain or be the author of an attractive nuisance.

B. Any vacant lot or open area of land into which the public, and particularly children, has access, within which any of the following conditions are present, is an attractive nuisance:

1. Ponding or impounding of water;

2. Open pits, shafts, caves or dilapidated nonoccupied buildings;

3. Noxious weeds or vegetation; or

4. Trash, debris or machinery. (Ord. 2005-01, 1-13-2005)

#### 4-1-6: INOPERATIVE MOTOR VEHICLES:

A. ~~It~~It shall be unlawful to park, store or leave, or permit the parking, storage or leaving of, any licensed or unlicensed motor vehicle of any kind, or a part or parts thereof, which is in a wrecked, junked, partially dismantled, dismantled or inoperative condition, whether attended or not, upon any property for a period of time exceeding seventy two (72) hours, except that not to exceed two (2) vehicles or part or parts thereof may be stored within a building or enclosed in an opaque screening fence six feet (6') in height, and except that such vehicles and part or parts thereof may be within a junkyard or automobile wrecking yard or motor vehicle repair establishment lawfully established **and licensed**.

Suggest omission of ~~strikeout~~ text and inclusion of underlined. Agree?



Response: Yes ☒ No ☐, or change as follows:

It does not appear the city issues business licenses. As such, should this bolded reference be removed?

Response: ☐ Yes; ☐ No

B. The accumulation and storage of motor vehicles in violation of subsection A of this section is detrimental to the health, safety and welfare of the residents of the city and is hereby declared to be a nuisance.

C. For purposes of this section, a motor vehicle shall be deemed to be inoperative if any of the following conditions exist:

1. The engine, transmission or other mechanical part has been removed so that the motor vehicle may not be operated under its own power;
2. The vehicle is stored or parked other than on its wheels;
3. More than one tire is flat;
4. It has not been registered under state law for a period in excess of eighteen (18) months; or
5. It has not operated under its own power for a period in excess of eighteen (18) months. (Ord. 2005-01, 1-13-2005)

#### 4-1-7: DANGEROUS BUILDINGS ABATEMENT:

The **uniform code of abatement of dangerous buildings, 1997 edition**, printed in book form by the International Conference of Building Officials, is hereby adopted as the city code for abatement of dangerous buildings. The city recorder shall maintain at least **three (3) copies** of said code in his office for use inspection by the public as required by state law. (Ord. 2005-01, 1-13-2005)

Is the above edition that which is currently on file and in use within the city?

Response: Yes, leave as is \_\_\_\_\_, or change as follows: **Please state: "The latest edition of the Uniform code of abatement of dangerous buildings..."**

Utah Code Annotated section 10-3-711 now requires only one copy to be on file. As such, may the above text be changed accordingly?

Response:   X   Yes; \_\_\_\_\_ No

#### 4-1-8: USE OF STATE ABATEMENT STATUTES:

It is the intent of the city council that the city have and exercise authority granted to it under Utah Code Annotated section 10-11-1 et seq., to remove or abate or cause the removal or abatement of nuisances as declared in this chapter, and of injurious and noxious weeds, and of garbage, refuse, unsightly or deleterious objects or structures. It is hereby declared that such injurious and noxious weeds, garbage, refuse or any unsightly or deleterious objects or structures constitute a nuisance ~~when they constitute a nuisance~~ is as defined in this chapter, or otherwise create a fire hazard, source of contamination or pollution of water, air or property, a danger to health, a breeding place for insects or rodents, or are unsightly or deleterious to their surroundings. (Ord. 2005-01, 1-13-2005)

Suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes   X   \_\_\_\_\_, No \_\_\_\_\_, or change as follows:

#### 4-1-9: INSPECTOR:

A. The mayor shall appoint an inspector to enforce and carry out the purposes of this chapter. The inspector may, from time to time,

authorize such other persons as may be necessary to serve as his representatives in carrying out the inspector's functions under this chapter, including, but not limited to, the building inspector, fire chief and health officers.

B. The inspector shall inspect and examine real property for the purpose of determining whether or not it contains a nuisance, injurious or noxious weeds, garbage, refuse or unsightly, unsafe or deleterious objects or structures and for the purpose of determining whether or not the existence of said ~~weeds~~ weeds or objects creates a fire hazard, constitutes a source of contamination or other danger to health and safety, or otherwise creates a nuisance~~s~~, as defined in this chapter.

Suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes ☒ ~~X~~ ☐, No ☐, or change as follows:

C. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the inspector or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition subject to abatement hereunder, the inspector or his authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any other duty imposed by this chapter; provided, if such building or premises be occupied, he shall first present his proper credentials and request such entry, and if such building or premises ~~by~~ be unoccupied, he shall first make a reasonable effort to locate the owner or other person having charge of the building or premises and request entry. If such entry is refused, the inspector or his authorized representative shall have recourse to every remedy provided by law to secure entry. (Ord. 2005-01, 1-13-2005)

Suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes ☒ ~~X~~ ☐, No ☐, or change as follows:

#### 4-1-10: NOTICE:

A. Required: If the inspector concludes that conditions specified in subsection 4-1-9B of this chapter exist, he shall ascertain the names of the owners and a description of the premises where such objects and condition exist. He shall serve notice in writing upon the owner or occupant of such land, either personally or by mailing notice, postage prepaid, by registered or certified mail, addressed to the owner or occupant at their last known post office address as disclosed by the records of the county recorder, requiring such owner or occupant, or both, as the case may be, to eradicate or destroy and remove the objects and conditions specified in the notice within such time as the inspector may designate, which shall be not less than ten (10) days from the date of service of such notice. Service shall be deemed complete when the notice is personally delivered or, if the notice is mailed, three (3) days after date of mailing. One notice shall be deemed sufficient on any lot or parcel of real property for the entire season of weed growth during that year.

B. Required Contents Of Notice: The notice shall inform the owner or occupant if the owner or occupant does not eradicate or destroy and remove the objects and conditions specified in the notice, the city will do so and will collect the costs of doing so by either suit in court, in which case the owner or occupant will also be assessed costs and attorney fees, or will collect the costs as a tax on the property.

C. Hearing Request: The notice will inform the owner or occupant that in the event the owner or occupant disagrees with the determination of the inspector and does not wish to comply with the provisions of the notice, the owner or occupant may, in writing, request a hearing before the city council. (Ord. 2005-01, 1-13-2005)

**Does the city desire to specify a time limit for requesting a hearing (i.e., within ten (10) days of service of the notice)? Refer to subsection 5-4-216, which also provides a civil enforcement procedure utilizing the state abatement statutes.**

**Response: Yes, the city would like it to be 10 business days**

#### 4-1-11: APPEAL HEARING:

A. Stay Of Notice: If an owner or occupant requests a hearing as provided in subsection 4-1-10C of this chapter, the time limit within which the owner or occupant must comply with the notice shall be stayed pending hearing by the city council.

B. Hearing Scheduled; Notice: When a hearing is requested as provided in subsection 4-1-10C of this chapter, the city council shall set the time and place for hearing. The city recorder shall give written notice to the person requesting the hearing. Except in cases of emergency, the hearing will be held at least five (5) days after notice is mailed by the city recorder.

C. Hearing; Decision Time Limit: At the hearing, the person who requested the hearing may present such evidence and argument as is relevant to the questions of whether or not the removal or abatement ~~or~~ of the objects or conditions and the requirements of the notice are proper. The city council shall also permit presentation of evidence and argument by the inspector and other interested parties. Within ten (10) days after close of the hearing, the city council shall render its written decision. The city recorder shall mail a copy of the decision to the person who requested the hearing.

Suggest omission of ~~strikeout~~ text and inclusion of underlined. Agree?

Response: Yes   X  , No       , or change as follows:

D. Decision Of City Council:

1. The city council may overrule, modify or uphold the determination of the inspector.
2. If the determination of the inspector is modified, the city council or inspector shall issue a modified notice conforming to the decision of the city council. The owner or occupant shall comply with the modified notice within such time as the city council shall specify which shall be not less than five (5) nor more than thirty (30) days after the city recorder mails a copy of the decision to the owner or occupant.
3. If the determination of the inspector is upheld, the owner or occupant shall comply with the original notice within such time as the city council shall specify, which shall be not less than five (5) nor more than thirty (30) days after the city recorder mails a copy of the decision to the owner or occupant. (Ord. 2005-01, 1-13-2005)

4-1-12: PROOF OF SERVICE:

If the inspector chooses to proceed under subsection 4-1-16B of this

chapter, he shall make a proof of service of the notice given under section 4-1-10 of this chapter, or as modified under section 4-1-11 of this chapter, under oath and file the same in the office of the county treasurer. (Ord. 2005-01, 1-13-2005)

#### 4-1-13: ABATEMENT BY CITY:

If the owner or occupant of property described in the notice provided in section 4-1-10 of this chapter, or a modified notice provided in section 4-1-11 of this chapter, fails to conform to the requirements of such notice relating to the eradication or destruction or removal of such weeds, garbage, refuse, objects or structures, the inspector shall may employ all necessary assistance to cause such materials to be removed or destroyed at the expense of the city. (Ord. 2005-01, 1-13-2005)

#### 4-1-14: STATEMENT OF EXPENSES:

The inspector shall prepare an itemized statement of all expenses incurred in the removal and destruction of said materials and shall mail a copy thereof, by registered mail, to the owner or occupant, or both, demanding payment within twenty (20) days of the date of mailing. Said notice shall be deemed delivered when mailed to the property owner's or occupant's last known address. (Ord. 2005-01, 1-13-2005)

#### 4-1-15: FAILURE TO MAKE PAYMENT:

If the owner or occupant fails to make payment of the amount set forth in the statement of expenses to the city treasurer within the twenty (20) day period, the inspector may either cause suit to be brought in an appropriate court or refer the matter to the county treasurer as provided in subsection 4-1-16B of this chapter. (Ord. 2005-01, 1-13-2005)

#### 4-1-16: COLLECTION:

A. Suit: If collection ~~of collection of~~ for destruction and removal ~~are~~ is pursuant pursued through the courts, the city shall sue for and receive judgment of all of said expenses, together with reasonable attorney fees, interest and costs of court, and shall execute on such judgment in the manner provided by law.

B. Taxes: If the matter is referred to the county treasurer for inclusion

in the tax notice of the property owner, the inspector shall make an itemized statement of all expenses incurred by the city in the destruction and removal and deliver three (3) copies of the statement to the county treasurer within ten (10) days after the expiration of the twenty (20) day period in which the owner or occupant may pay voluntarily. Thereupon, the cost of said work shall be ~~pursuant~~ pursued by the county treasurer in accordance with Utah Code Annotated section 10-11-4, as amended. (Ord. 2005-01, 1-13-2005)

Suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes ☒ No ☐, or change as follows:

4-1-17: CRIMINAL PENALTY:

A. Any person who violates the provisions of sections 4-1-4, 4-1-5 or 4-1-6 of this chapter, or who fails to comply with a notice given pursuant to section 4-1-11 of this chapter, is guilty of an infraction and **shall be liable to punishment by a fine of not to exceed one thousand dollars (\$1,000.00)**. A person shall be guilty of a separate offense for each day of violation.

According to Utah Code Annotated section 76-3-301, the maximum penalty for an infraction violation is \$750.00. Suggest the city amend the text to state "...and shall be subject to penalty as provided in section 1-4-1 of this code". Agree?

Response: ☒ Yes; ☐ No

Also, suggest this subsection be amended to state "Any person who violates any provision of this chapter, unless otherwise specified, is guilty of...". Does the city agree?

Response: ☒ Yes; ☐ No

B. The inspector appointed pursuant to section 4-1-9 of this chapter, or any peace officer, may issue a citation for the infraction defined by this section. (Ord. 2005-01, 1-13-2005)

**TITLE 5**

## CHAPTER 1

### CRIMES AND OFFENSES

For statute authority, see UCA § 10-3-711.

#### SECTION:

- 5-1-1: Criminal Code
- 5-1-2: Controlled Substances Act
- 5-1-3: Drug Paraphernalia Act
- 5-1-4: Imitation Controlled Substances Act
- 5-1-5: Disturbing The Peace

#### 5-1-1: CRIMINAL CODE:

The Utah criminal code, as contained in Utah Code Annotated title 76, as it may from time to time be amended, and with the modifications contained in this title, is hereby adopted as the criminal code of city. By this reference, the Utah criminal code is made a part of this code as fully as if set out in the body of this code; provided, however, this section is not intended and does not grant to the city any powers or jurisdiction not specifically or impliedly granted by law and those provisions of the Utah criminal code under which the city is not authorized by law to bring charges are excluded from this adoption of the Utah criminal code. The city recorder shall maintain at least **three (3) copies** of said Utah criminal code in the city recorder's office for use and inspection of the public as required by state law. Where a citation, information or complaint is issued for violation of the Utah criminal code adopted by this section, it shall be sufficient to use the number of the appropriate section of Utah Code Annotated, followed by "adopted by the ordinances of city of Woodland Hills" to show the section of the city ordinance which has been violated. (2005-01, 1-13-2005)

Utah Code Annotated section 10-3-711 now requires only one copy to be on file. As such, may the text in this section and the following sections be changed accordingly?

Response:   X   Yes;        No



#### 5-1-2: CONTROLLED SUBSTANCES ACT:

The Utah controlled substances act, as contained in Utah Code Annotated title 58, chapter 37, as it may from time to time be amended, and with the modifications contained in this title, is hereby adopted as the controlled substances ordinance of city. By this reference, the Utah controlled substances act is made a part of this code as fully as if set out in the body of this code; provided, however, this section is not intended and does not grant to the city any powers or jurisdiction not specifically or impliedly granted by law and those provisions of the Utah controlled substances act under which the city is not authorized by law to bring charges are excluded from this adoption of the Utah controlled substances act. The city recorder shall maintain at least **three (3) copies** of said Utah controlled substances act in the city recorder's office for use and inspection of the public as required by state law. Where a citation, information or complaint is issued for violation of the Utah controlled substances act adopted by this section, it shall be sufficient to use the number of the appropriate section of Utah Code Annotated, followed by "adopted by the ordinances of city of Woodland Hills" to show the section of the city ordinance which has been violated. (2005-01, 1-13-2005)

#### 5-1-3: DRUG PARAPHERNALIA ACT:

The Utah drug paraphernalia act, as contained in Utah Code Annotated title 58, chapter 37a, as it may from time to time be amended, and with the modifications contained in this title, is hereby adopted as the drug paraphernalia ordinance of city. By this reference, the Utah drug paraphernalia act is made a part of this code as fully as if set out in the body of this code; provided, however, this section is not intended and does not grant to the city any powers or jurisdiction not specifically or impliedly granted by law and those provisions of the Utah drug paraphernalia act under which the city is not authorized by law to bring charges are excluded from this adoption of the Utah drug paraphernalia act. The city recorder shall maintain at least **three (3) copies** of said Utah drug paraphernalia act in the city recorder's office for use and inspection of the public as required by state law. Where a citation, information or complaint is issued for violation of the Utah drug paraphernalia act adopted by this section, it shall be sufficient to use the number of the appropriate section of Utah Code Annotated, followed by "adopted by the ordinances of city of Woodland Hills" to show the section of the city ordinance which has been violated. (2005-01, 1-13-2005)

#### 5-1-4: IMITATION CONTROLLED SUBSTANCES ACT:

The imitation controlled substances act, as contained in Utah Code Annotated title 58, chapter 37b, as it may from time to time be amended, and with the modifications contained in this title, is hereby adopted as the imitation controlled substances ordinance of city. By this reference, the imitation controlled substances act is made a part of this code as fully as if set out in the body of this code; provided, however, this section is not intended and does not grant to the city any powers or jurisdiction not specifically or impliedly granted by law and those provisions of the imitation controlled substances act under which the city is not authorized by law to bring charges are excluded from this adoption of the imitation controlled substances act. The city recorder shall maintain at least **three (3) copies** of said imitation controlled substances act in the city recorder's office for use and inspection of the public as required by state law. Where a citation, information or complaint is issued for violation of the imitation controlled substances act adopted by this section, it shall be sufficient to use the number of the appropriate section of Utah Code Annotated, followed by "adopted by the ordinances of city of Woodland Hills" to show the section of the city ordinance which has been violated. (2005-01, 1-13-2005)

#### 5-1-5: DISTURBING THE PEACE:

A. Prohibited: It shall be unlawful for any person to maliciously or wilfully disturb the peace or quiet of another by loud or unusual noise or by tumultuous conduct or by threatening or yelling in a manner likely to incite another to violence.

B. Public Disturbances: It shall be unlawful for any person to cause noise that constitutes a public disturbance after once being requested to stop making the noise. It shall also be unlawful for any person in possession of real property to allow to originate from the property noise that constitutes public disturbance after once being requested to stop permitting the noise. For purpose of this section, public disturbances shall be any sound which unreasonably disturbs or interferes with the peace, comfort or repose of owners or possessors of real property and which emanates from any of the following sounds:

1. Music, stereo or sound systems.
2. Loud arguing or boisterous conduct.
3. Sports or other entertainment activities between the hours of ten

thirty o'clock (10:30) P.M. and seven o'clock (7:00) A.M.

4. The use of machinery and equipment or motorized or power tools and equipment between the hours of nine thirty o'clock (9:30) P.M. and six thirty o'clock (6:30) A.M. Monday through Saturday and no usage on Sunday.

5. The repetitive or continuous starting, testing or operating of motor vehicles, which includes motorcycles, ATVs and snowmobiles.

C. Specialized Equipment; Emergency: Subsection B of this section shall not prohibit use of specialized equipment used for seasonal and periodic snow removal, nor utilization of machinery and motorized or power tools in an emergency. An "emergency" means an event or circumstance where life and property are in danger of sustaining substantial damage. Construction deadlines and convenience are not within the meaning of "emergency".

D. Penalty: Violation of this section is a class C misdemeanor if the offense continues after the request to desist, otherwise it is an infraction, both subject to penalty as provided in section 1-4-1 of this code. (2005-01, 1-13-2005)

For consistency, suggest inclusion of underlined. Agree?

Response: Yes ☐ X ☒, No ☐, or change as follows:

## CHAPTER 2

### CURFEW

#### SECTION:

- 5-2-1: Curfew Hours
- 5-2-2: Parents Permitting Violation
- 5-2-3: Exceptions
- 5-2-4: Enforcement

#### 5-2-1: CURFEW HOURS:

A. Under Sixteen Years: It shall be unlawful for any minor under the age of sixteen (16) years to remain or loiter upon any of the sidewalks, streets, alleys or public places in the city between the hours of eleven o'clock (11:00) P.M. and five o'clock (5:00) A.M. the following morning.

B. Sixteen Years And Older: It shall be unlawful for any minor sixteen (16) years of age or older to remain or loiter upon any of the sidewalks, streets, alleys or public places in the between the hours of eleven o'clock (11:00) P.M. and five o'clock (5:00) A.M., Sunday through Friday, and between the hours of one o'clock (1:00) A.M. and five o'clock (5:00) A.M. Saturday through Sunday. (2005-01, 1-13-2005)

#### 5-2-2: PARENTS PERMITTING VIOLATION:

It shall be unlawful for any parent, guardian or other person having care and custody of any minor to knowingly allow or permit the minor to violate the provisions of this chapter. (2005-01, 1-13-2005)

#### 5-2-3: EXCEPTIONS:

The prohibition of section 5-2-1 of this chapter shall not apply to any circumstance in which the minor is:

A. Accompanied by a parent, guardian or other responsible adult having care and custody of such minor.

B. Engaged in a legitimate trade, employment or occupation which requires the minor's presence in or on the sidewalks, streets, alleys or public places while working at, or traveling to or from, such employment.

C. Engaged on an emergency errand directed by the minor's parent, guardian or other responsible person having care and custody of the minor.

D. In a motor vehicle engaged in normal interstate travel beginning in, traveling through, or ending in, the city.

E. Attending or engaged in traveling between the minor's home or place of residence, and a place where any religious, municipal, social, entertainment, sporting, political, library or school function is occurring.

F. Within the boundaries of the minor's place of residence. (2005-01, 1-13-2005)

#### 5-2-4: ENFORCEMENT:

A. Any minor who is in violation of the provisions of this chapter is

subject to arrest and citation.

B. Upon arrest, the minor shall be returned to the custody of the parent, guardian or other person charged with the care and custody of the minor.

C. It shall be unlawful for any parent, guardian or other person charged with the care and custody of a minor, who is in violation of this chapter, to knowingly refuse to appear and take custody of said minor after being ordered to do so by a peace officer.

D. Any person who violates the provisions of this chapter is guilty of a class C misdemeanor, subject to penalty as provided in section 1-4-1 of this code. (2005-01, 1-13-2005)

For consistency, suggest inclusion of underlined. Agree?

Response: Yes \_\_\_ X \_\_\_, No \_\_\_\_\_, or change as follows:

## CHAPTER 3

### FIRE DEPARTMENT

For statute authority, see UCA § 10-8-55.

#### SECTION:

5-3-1: Short Title

5-3-2: Creation Of Volunteer Fire Department

5-3-3: Standard Operating Guidelines

5-3-1: SHORT TITLE:

This chapter shall be known and may be cited as the *WOODLAND HILLS VOLUNTEER FIRE DEPARTMENT ORDINANCE*. (Ord. 2007-11, 8-15-2007)

5-3-2: CREATION OF VOLUNTEER FIRE DEPARTMENT:

A. There is hereby created a fire department to be known as the city of Woodland Hills volunteer fire department. The fire department shall consist of a fire chief, to be appointed by the mayor, with the consent of the city council, and such other officers, employees and volunteers as may be provided for from time to time by the city council.

B. The fire department shall provide fire protection services to the city and its residents and shall perform such other duties as may be provided from time to time by ordinance or resolution, or order of the mayor and city council.

C. In adopting this chapter, the city council recognizes that the fire department has been a division of city government since May 1994, and has operated continuously as such a division of city government since that time. This chapter is adopted for the purpose of codifying the existence of the fire department. (Ord. 2007-11, 8-15-2007)

#### 5-3-3: STANDARD OPERATING GUIDELINES:

The city volunteer fire department will continue to operate under the document titled "Standard Operating Guidelines Of The Woodland Hills Fire Department". (Ord. 2007-11, 8-15-2007)

## CHAPTER 4

### FIRE CODE AND FIRE PROTECTION

**For statute authority, see UCA §§ 15A-1-403, 15A-5.**

#### SECTION:

- 5-4-1: Fire Code Adopted
- 5-4-2: Wildland Interface/Fire Safety
- 5-4-3: Fireworks
- 5-4-4: Open Fires

#### 5-4-1: FIRE CODE ADOPTED:

**The state legislature has significantly amended the state fire code. Refer to Utah Code annotated section 15A-5-103. Also, refer to section 15A-1-403, which states that political subdivisions may be more restrictive, which may conflict with the city legislation in that it has adopted the 2003 edition. The city may desire to simply adopt the statutes by reference, thereby eliminating conflicting and possibly unenforceable legislation. Please advise.**

**Response: City council will adopt the state statutes by reference.**

A. International Fire Code: The **international fire code, 2003 edition**, as published by the International Code Council, is hereby adopted as the city fire code. When a later edition of the international fire code is approved by the Utah fire marshal, such later edition is hereby adopted as the city fire code. The same is adopted, with the modifications as set forth in this chapter, as if fully set forth herein. The city recorder shall maintain at least one copy of said fire code in his/her office for use and inspection by the public as required by state law. (Ord. 2007-08, 5-9-2007)

B. Modifications To Fire Code: The international fire code adopted by subsection A of this section is hereby modified as follows:

1. The definition of chief appointing authority in 103.1 of the international fire code shall mean the mayor.
2. The definition of jurisdiction used in 101.1 of the international fire code shall mean city of Woodland Hills.
3. The jurisdictional area shall be the area within the boundaries of city of Woodland Hills.
4. As used in of the international fire code, the following definitions shall be modified as follows:
  - a. International building code shall mean the edition of the international building code which is from time to time adopted by the city as the city building code.
  - b. International mechanical code shall mean the edition of the international mechanical code which is from time to time adopted by the city as the city mechanical code.
  - c. International plumbing code shall mean the edition of the international plumbing code which is from time to time adopted by the city as the city plumbing code.
5. Wherever the international fire code refers to specific sections or standards of specific editions of the international building code, international mechanical code or international plumbing code, and that specific edition of such code has not been adopted by the city, such references shall be deemed to be to similar provisions, if any, of the current city building, electrical, mechanical or plumbing code.

6. The limits referred to in section 3804 of the international fire code in which storage of liquefied petroleum gas is restricted, are hereby established as follows: No stationary LPG tanks in excess of twenty five (25) gallons will be permitted at any residence or in any residential zone.

7. The limits referred to in section 3404.2 of the International fire code in which the storage of flammable or combustible liquids is restricted are hereby established as follows: No flammable or combustible liquid tanks will be permitted at any residence or in any residential zone.

C. Appeals: Whenever the fire chief disapproves an application or refuses to grant a permit applied for, or when it is claimed that the provisions of the adopted fire code do not apply, or that the true intent and meaning of the adopted fire code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the fire chief to the city council within thirty (30) days from the date of the decision appealed.

Suggest inclusion of underlined. Agree?

Response: Yes ☒ X ☐, No ☐, or change as follows:

D. Penalty: Unless a different penalty is specified by a specific provision of this chapter or the adopted fire code, any person violating any provision of the international fire code as adopted by this section, or of the regulations promulgated pursuant thereto, or of any other provision of this section, shall be guilty of a class B misdemeanor and, upon conviction thereof, shall be liable to punishment by a fine in an amount not to exceed one thousand dollars (\$1,000.00), or by imprisonment for a term not to exceed six (6) months, or by both such fine and imprisonment subject to penalty as provided in section 1-4-1 of this code. Each day of violation of such provision or regulation shall constitute a separate offense. (Ord. 2005-01, 1-13-2005)

For consistency, suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes ☒ X ☐, No ☐, or change as follows:



5-4-2: WILDLAND INTERFACE/FIRE SAFETY:

A. Title: This section shall be known as the *WOODLAND HILLS WILDLAND INTERFACE/FIRE SAFETY ORDINANCE*, and may be so cited and pleaded. All references in this section to the fire chief shall be deemed to include the fire chief and any other person or persons appointed by the mayor to act in enforcing this section.

B. Fire Safety Permit: Notwithstanding any provision of the building code and fire code adopted by the city, all applications for a building permit for any structure within the city shall be deemed to be also an application for a fire safety permit. No construction of a structure shall commence, nor shall a structure be occupied or used, until a fire safety permit has been issued by the fire chief. The fire chief shall issue a fire safety permit when the fire chief determines that the building site, construction plans, and site plan comply with the provisions of subsections C, D and E of this section.

C. Driveways: Notwithstanding any provision of the fire code adopted by the city, all driveways on any parcel of land in the city shall provide a minimum unobstructed width, not including shoulders, of ten feet (10') and minimum unobstructed overhead clearance of thirteen and one-half feet (13<sup>1</sup>/<sub>2</sub>'). (Ord. 2005-01, 1-13-2005)

**D. Construction Standards:** The fire code adopted by section 5-4-1 of this chapter is hereby amended to include the following provisions:

If this legislation is retained, suggest the following technical specifications be reviewed by the appropriate city official, noting any necessary amendments.

1. Fire Sprinkler Systems: All new construction of any structure and construction that constitutes more than fifty percent (50%) expansion of any structure shall include an automatic fire sprinkler system which complies with the fire code, National Fire Protection Association 13D requirements, and related regulations and standards adopted by the city, modified as follows:

a. Fire sprinklers shall be required in all heated areas, living areas, garages and mechanical or furnace rooms except:

- (1) Attic and crawlspaces where there is no furnace;
  - (2) Bathroom showers;
  - (3) Under garage doors; and
  - (4) In a detached garage separated from the dwelling unit or main building by more than twenty feet (20') and having a floor area of two hundred (200) square feet or smaller.
- b. Sprinkling systems shall be provided with an exterior inspector's test port, which is a Woodford model 65 (exposed type) or B65 wall hydrant, or that complies with other specifications or other material approved by the fire chief.
- c. An expansion chamber must be provided to compensate for thermal expansion of the antifreeze solution within the fire sprinkler system. **We recommend that a listed expansion chamber be installed.** The size of the expansion chamber must include the pre-charge air temperature and pre-charge air pressure. The size of the expansion chamber must be such that the maximum system pressure does not exceed the rated pressure for any components of the antifreeze system.
- d. The fire sprinkler contractor shall indicate the anti-freeze solution to be used and the concentration/mixture proportions. Antifreeze solution shall not exceed a maximum concentration of 38% premixed propylene glycol or 48% premixed glycerin.
- e. The fire sprinkler contractor shall indicate on the fire sprinkler drawings the total amount of anti-freeze to be used in the system.

## 2. Vents, Overhangs, Stilts:

- a. All vents shall be screened with a corrosion resistant, noncombustible wire mesh not to exceed nominal one-fourth inch ( $1/4$ " ) in size. The underside of combustible projections of ten inches (10") or more shall be constructed of a material specified by \_\_\_\_\_
- .

There is text missing above. The city will need to fill in the blank.

Response: "...the International Fire Code"

- b. Unenclosed accessory structures attached to buildings with habitable

spaces and projections, such as decks, shall be a minimum of 1-hour fire-resistance-rated construction, heavy timber construction or constructed of one of the following: - Approved noncombustible materials; - Fire-retardant-treated wood identified for exterior use and meeting the requirements of Section 2303.2 of the International Building Code; or - Ignition-resistant building materials in accordance with exterior walls requirements above. When the attached structure is located and constructed so that the structure or any portion thereof projects over a descending slope surface, the area below the structure shall have all underfloor areas enclosed to within 6 inches (152 mm) of the ground, in accordance with exterior wall construction above.

The above subsection does not exist and the second bolded provision is incomplete. Please specify the necessary amendments.

Response: **This subsection has been updated.**

3. Exterior Walls: All exterior vertical walls shall be constructed of: concrete masonry; or brick veneer not less than three inches (3") thick; or cement plaster in compliance with the exterior finish requirements of the building code adopted by the city; or any noncombustible material meeting the intent of this section and approved by the fire chief. (Ord. 2007-05, 3-14-2007)

E. Vegetative Clearance: Notwithstanding any provision or appendix of the fire code adopted by section 5-4-1 of this chapter, the minimum vegetation clearance around any dwelling unit or any other structure with a floor area greater than six hundred (600) square feet shall be:

1. Dead Vegetative Material: All dead vegetative material, except leaves and chips, shall be removed ~~and~~ from the area within one hundred feet (100') of a dwelling and fifty feet (50') from other structures.

2. Live Vegetation: Live vegetation shall meet the following standards:

a. Shrubs may be used as ornamental planting against the walls and foundations of a structure only if irrigated by an automatic sprinkler or other irrigation system approved by the **building fire chief**.

Is the above reference correct, as opposed to "building official/inspector" or "fire chief"?

Response: **Should just say "Fire Chief"**

b. Native grasses within thirty feet (30') of a structure shall be:

(1) Trimmed to a height not greater than six inches (6"); or

(2) Irrigated by an automatic sprinkler system; or

(3) Removed and replaced with a fire resistant species approved by the fire chief.

3. Gambel Oak: Gambel oak (scrub oak) and pine and fir trees shall be removed from the area within ten feet (10') of a structure. Gambel oak (scrub oak) located in the area more than ten feet (10') from a structure but less than thirty feet (30') from a structure shall be removed unless irrigated by an automatic sprinkler system.

4. Disposal: All vegetation removed shall be disposed of by chipping, burying or removal from the premises. Burning of such material is prohibited.

5. Fuel Tanks: All vegetation more than four inches (4") in height shall be removed from the area within ten feet (10') of a propane or other fuel tank.

F. Maintenance Of Fire Safety Conditions: The owner and occupant of each parcel of land located in the city shall be required to remove all dead, decomposed or diseased vegetation.

G. Fire Hydrants:

1. The owner and occupant of each parcel of land located in the city on which a structure is located shall maintain a clear space around each fire hydrant located on the parcel.

2. For purpose of this subsection, a clear area shall be the area within three feet (3') of the hydrant. Within that area, all vegetation shall be removed to a height of four inches (4") or less and all snow shall be removed to a depth of eight inches (8") or less.

H. Streets As Firebreaks: The owner and occupant of each parcel of land located in the city shall:

1. Remove all dead vegetation, including, without limitation, dead standing trees and dead branches of live trees, that is within thirty feet (30') of the right of way of any public street.

2. Remove all dry grass having a height of six inches (6") or greater within the area of the parcel that is within thirty feet (30') of the public street.

I. Civil Enforcement Procedure:

1. Use Of State Abatement Statutes: It is the intent of the city council that the city have and exercise authority granted to it under Utah Code Annotated section 10-11-1 et seq., to remove or abate or cause the removal or abatement of nuisances. It is hereby declared that property that does not comply with the provisions of subsections C, D, E, F and H of this section constitutes a nuisance in that it creates a fire hazard, a danger to health and is deleterious to its surroundings.

2. Inspection: The fire chief shall inspect and examine real property for the purpose of determining whether or not there is a violation of subsections C, D, E, F and H of this section.

3. Entrance On Premises: Whenever necessary to make an inspection to enforce any of the provisions of this section, or whenever the fire chief or his authorized representative has reasonable cause to believe that there exists on any premises any condition subject to abatement hereunder, the fire chief or his authorized representative may enter such premises at all reasonable times to inspect the same or to perform any other duty imposed by this section; provided, if such premises be occupied, he shall first present his proper credentials and request such entry, and if such premises ~~by~~ be unoccupied, he shall first make a reasonable effort to locate the owner or other person having charge of the premises and request entry. If such entry is refused, the fire chief or his authorized representative shall have recourse to every remedy provided by law to secure entry.

With regard to the FOLLOWING subsections I4 through I15b, such provisions are covered under the sections/subsections indicated in red text following each such subsection. As we have pointed out through this code workbook, conflicts can be created when duplicate legislation exists. It would be Sterling's suggestion that the city amend the following sections to read as follows:

4. Procedure: The procedure for civil enforcement under this section shall be as specified in title 4, chapter 1 of this title for abatement of nuisances.

Does the city agree with this recommendation?

Response:   X   Yes;        No (leave)

4. Notice: If the fire chief concludes that any of the conditions specified in subsection I1 of this section exist, he shall ascertain the names of the owners and a description of the premises where such condition exists. He shall serve notice in writing upon the owner or occupant of such land, either personally or by mailing notice, postage prepaid, by registered or certified mail, addressed to the owner or occupant at their last known post office address as disclosed by the records of the county recorder, requiring such owner or occupant, or both, as the case may be, to abate the conditions specified in the notice within such time as the fire chief may designate, which shall be not less than ten (10) days from the date of service of such notice. Service shall be deemed complete when the notice is personally delivered or, if the notice is mailed, three (3) days after date of mailing. One notice shall be deemed sufficient on any lot or parcel of real property for the entire season of vegetation growth during that year.

#### 4-1-10A

5. Content Of Notice: The notice shall inform the owner or occupant if the owner or occupant does not abate the conditions specified in the notice, the city may do so and will collect the costs of doing so by either suit in court, in which case the owner or occupant will also be assessed costs and attorney fees, or will collect the costs as a tax on the property.

#### 4-1-10B

6. Request For Hearing: The notice will inform the owner or occupant that in the event the owner or occupant disagrees with the determination of the fire chief and does not wish to comply with the provisions of the notice, the owner or occupant may, within ten (10) days of service of the notice, in writing request a hearing before the city council.

#### 4-1-10C

7. Stay Of Notice: If an owner or occupant requests a hearing as provided in subsection I6 of this section, the time limit within which the owner or occupant must comply with the notice shall be stayed pending hearing

by the city council.

#### 4-1-11A

8. Hearing Scheduled; Notice: When a hearing is requested as provided in subsection I6 of this section, the city council shall set the time and place for hearing. The city recorder shall give written notice to the person requesting the hearing. Except in cases of emergency, the hearing will be held at least five (5) days after notice is mailed by the city recorder.

#### 4-1-11B

9. Hearing; Decision Time Limit: At the hearing, the person who requested the hearing may present such evidence and argument as is relevant to the questions of whether or not the removal or abatement ~~or~~ of the objects or conditions and the requirements of the notice are proper. The city council shall also permit presentation of evidence and argument by the fire chief and other interested parties. Within ten (10) days after close of the hearing, the city council shall render its written decision. The city recorder shall mail a copy of the decision to the person who requested the hearing.

#### 4-1-11C

If retained, suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes \_\_\_ **X** \_\_, No \_\_\_\_\_, or change as follows:

10. Decision Of City Council:

a. The city council may overrule, modify or uphold the determination of the fire chief.

b. If the determination of the fire chief is modified, the city council or fire chief shall issue a modified notice conforming to the decision of the city council. The owner or occupant shall comply with the modified

notice within such time as the city council shall specify which shall be not less than five (5) nor more than thirty (30) days after the city recorder mails a copy of the decision to the owner or occupant.

c. If the determination of the fire chief is upheld, the owner or occupant shall comply with the original notice within such time as the city council shall specify which shall be not less than five (5) nor more than thirty (30) days after the city recorder mails a copy of the decision to the owner or occupant.

#### 4-1-11D

11. Proof Of Service: If the fire chief chooses to proceed under subsection I8 of this section, he shall make a proof of service of the notice given under subsection I4 of this section, or as modified under subsection I10b of this section, under oath and file the same in the office of the county treasurer.

#### 4-1-12

12. Abatement By City: If the owner or occupant of property described in the notice provided in subsection I4 of this section, or a modified notice provided in subsection I10b of this section, fails to conform to the requirements of such notice relating to the abatement of the conditions specified in the notice or amended notice, the fire chief shall may employ all necessary assistance to perform such abatement at the expense of the city.

#### 4-1-13

13. Statement Of Expenses: The fire chief shall prepare an itemized statement of all expenses incurred in the abatement and shall mail a copy thereof, by registered mail, to the owner or occupant, or both, demanding payment within twenty (20) days of the date of mailing. Said notice shall be deemed delivered when mailed to the property owner's or occupant's last known address.

#### 4-1-14

14. Failure To Make Payment: If the owner or occupant fails to make



payment of the amount set forth in the statement of expenses to the city treasurer within the twenty (20) day period, the fire chief may either cause suit to be brought in an appropriate court or refer the matter to the county treasurer as provided in subsection I15b of this section.

#### 4-1-15

##### 15. Collection:

a. Suit: If collection of costs of destruction and removal are pursued through the courts, the city shall sue for and receive judgment of all of said expenses, together with reasonable attorney fees, interest and costs of court and shall execute on such judgment in the manner provided by law.

b. Taxes: If the matter is referred to the county treasurer for inclusion in the tax notice of the property owner, the fire chief shall make an itemized statement of all expenses incurred by the city in the destruction and removal, and deliver three (3) copies of the statement to the county treasurer within ten (10) days after the expiration of the twenty (20) day period in which the owner or occupant may pay voluntarily. Thereupon, the cost of said work shall be ~~pursuant~~ pursued by the county treasurer in accordance with Utah Code Annotated section 10-11-4, as amended.

#### 4-1-16

If retained, suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes ☒ X ☐, No ☐, or change as follows:

##### J. Penalty:

1. Any person who violates any provision of this section is guilty of a class C misdemeanor **and shall be liable to punishment by a fine of not to exceed one thousand dollars (\$1,000.00) or by imprisonment for a term not to exceed six (6) months, or by both such fine and imprisonment.**

According to Utah Code Annotated section 76-3-301, the maximum penalty for a class C misdemeanor violation is \$750.00. Suggest the city amend the text to state "...and shall be

subject to penalty as provided in section 1-4-1 of this code". Agree?

Response: ☒ Yes; ☐ No

2. The fire chief or any peace officer may issue a citation for the misdemeanor defined by this subsection. (Ord. 2005-01, 1-13-2005)

5-4-3: FIREWORKS:

For statute authority, see UCA §§ 10-8-47, 11-3-1 et seq., 53-7-220 et seq.

A. Except as permitted by **Utah Code Annotated section 23-13-17** and as provided in subsection B of this section, it shall be unlawful to use or discharge any firework in the city:

Is the above reference correct, which refers to the state legislation permitting spotlighting of specific animals?

Response: ☐ Yes; ☒ No (please specify) **Remove the first part of the sentence so that it starts with "It shall be unlawful to use...."**

B. Permitted Discharge:

1. Class C common state approved explosives included on the list published the Utah state fire marshal division may be discharged three (3) days prior to, on the day of, and three (3) days following July 4, July 24, January 1 and the Chinese New Year, but only at such location and in strict compliance with such safety provisions **stated in a permit** issued by the fire chief.

Does the city actually issue a permit for discharge of fireworks by the general public?

Response: **B-1 should be removed entirely.**

2. A fireworks display operator licensed under state law may discharge

fireworks at such time and location within the city determined by the city council.

C. Ban Or Restricted Use: In any circumstances where the city council deems it in the best interest of public safety or the welfare of the community, the city council may pass, by resolution, a ban or restriction on the use of fireworks in part or all of the city. The resolution should clearly state the location of the ban and the length the ban shall remain in effect.

D. Penalty: Violation of this section shall be punished as a class C misdemeanor, and subject to penalty as provided in section 1-4-1 of this code. (Ord. 2005-01, 1-13-2005)

For consistency, suggest inclusion of underlined. Agree?

Response: Yes ☐ X ☒, No ☐, or change as follows:

#### 5-4-4: OPEN FIRES:

A. Prohibited; Exceptions: It shall be unlawful for any person to ignite or maintain any open fire within the city. Extreme caution is advised for the following exceptions, wherein all reasonable effort should be made to eliminate flammable materials, both above and below the flame, extending in a ten foot (10') radius:

1. Stoves and fire pits that are fueled solely by liquid fuel;
2. Charcoal fired grills, barbecues and smokers are only allowed if the flame can be completely covered by the apparatus:
  - a. Uncovered Hibachi style grills are explicitly prohibited;
  - b. Stove or fireplace ashes and charcoal briquettes must be disposed only after soaking them in a metal pail of water;
3. Persons smoking while stopped in an area at least three feet (3') in diameter that is clear of all flammable materials; cigarette butts may not be discarded on the ground;
4. Stoves, grills, fire pits, etc., must be attended as long as any

surface of the apparatus is hot to the touch.

B. Fire Department Authority: An explicit exemption to this section is granted to the city fire department for the purposes of lighting protective back burns and other measures in the interest of public safety.

C. Agricultural Burning: Agricultural burning shall be allowed in the city when all of the following conditions are met:

1. Property in which the burn is taking place is zoned agricultural with the **county recorder's office**;

Is the above reference correct, as opposed to the city zoning ordinance?

Response: **Should be City zoning ordinance**

2. Fire danger must be posted as low at the city entrances;

3. The day chosen for burning is a green burn day determined by the state for Utah County;

4. Notification must be made to the city recorder and fire chief. (Ord. 2013-02, 3-26-2013)

## CHAPTER 5

### FIREARMS AND WEAPONS

For statute authority, see UCA § 10-8-47.

#### SECTION:

- 5-5-1: Definitions
- 5-5-2: Discharge Of Firearms
- 5-5-3: Shooting Weapons
- 5-5-4: Conditional Use Permit
- 5-5-5: Liability
- 5-5-6: Penalty

#### 5-5-1: DEFINITIONS:

**The following words and phrases used in this chapter shall have the following meanings unless a different meaning clearly appears from the context:**

**In order to provide consistency in the new code, Sterling has included the above introductory text.**

**!DEF! FIREARMS:** Any device which uses detonation of an explosive material or mixture such as gun powder, propane, flammable liquids or gasses, etc., to launch a projectile, make a noise or both. Common types of such devices include rifles, pistols, revolvers, shotguns, cannons or other explosive devices (bombs).

**WEAPONS:** Any device, by whatever name known, which uses compressed air, springs, rubber bands, nonexplosive propellants or sheer force to discharge, fire, expel, launch or propel a projectile or projectiles with a force that reasonably is expected to have sufficient force to cause bodily harm or property damage. Common types of such devices include, but are not limited to, bow and arrow, slingshot, air rifle, air pistol, spring gun, BB gun, pellet gun, wrist rocket, blow gun, paintball gun, etc., or any similar device that is not a firearm. (Ord. 2012-10, 12-4-2012) **!DEFEND!**

#### **5-5-2: DISCHARGE OF FIREARMS:**

It shall be unlawful for any person to discharge a firearm within the city limits, whether on public or private property, except under the following conditions:

A. Any duly sworn peace officer, state or federal law enforcement officer authorized to carry a firearm, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer, may discharge a firearm in the performance of their duty.

B. Without restriction, livestock owners may discharge a firearm on their property to kill depreciated animals as long as they are in compliance with other city or state codes or rules.

C. A resident has the right to discharge a firearm in defense of life and property in compliance with the state statutes governing that defense.

D. On a property of more than one hundred (100) adjoining acres all within the city limits, the property owner may discharge a firearm on that property, as long as they are in compliance with all federal, state and county statutes. (Ord. 2012-10, 12-4-2012)

#### 5-5-3: SHOOTING WEAPONS:

A. It shall be unlawful for any person to discharge a weapon within the city limits on public property.

B. On a property of more than one hundred (100) adjoining acres all within the city limits, the property owner may discharge a weapon on that property, as long as they are in compliance with all federal, state and county statutes.

C. A property owner may discharge a weapon (not a firearm) on his or her own property of less than one hundred (100) acres only if they have obtained a conditional use permit from the city. (Ord. 2012-10, 12-4-2012)

#### 5-5-4: CONDITIONAL USE PERMIT:

A. Permit Required: The city may consider conditional use permits for "weapons", as defined in section 5-5-1 of this chapter, provided a property owner has filled out an application, paid the application fee for a permit, and has agreed the weapon or weapons will be used in compliance with other statutes and the limitations announced by the permit.

B. Exceptions For Permit Requirement: The provisions of this section shall not be construed to prohibit the lawful use of the following without a permit:

1. Any device used exclusively for the discharge or firing of staples, stud cartridges, explosive rivets or similar industrial ammunition when used for construction purposes;

2. Balloons filled with water, water guns or pistols;

3. Mechanical devices designed and used to launch balls for batting practice or tennis practice;

4. Toy guns which are designed to expel projectiles consisting of "nonexpanding recreational foam" (NERF) that possesses a soft texture;

5. Recreational darts; and

6. The launching of a noncommercial "rocket" propelled by water, nonflammable liquid or compressed air as part of an organized youth or adult group recreational activity. "Rockets" propelled by flammable propellants and/or fuel are prohibited.

C. Factors To Consider: The city will evaluate multiple factors, including type of weapon, safety, property size, location, number of participants, etc. After evaluating all factors, the city may, at its discretion, ~~may~~ issue or deny a permit.

Suggest omission of ~~strikeout~~ text. Agree?

Response: Yes ☐ **X** ☐, No ☐, or change as follows:

D. Appeal Of Denial Or Revocation: Any denied or revoked permit can be appealed to the **administrative court** who will make the final decision.

Is the appeal to the administrative court correct?

Response: Yes, leave as is ☐ **X** ☐, or change as follows:

E. Issuance Of Permit: An issued permit will be specific for the type of weapon, the physical address of the property, expiration date and person or persons allowed to discharge.

F. Permit On Site: A permit must be on site at the time of discharge and be produced to any city official or law enforcement officer.

G. Denial: The city reserves the right to deny any application for any reason.

H. Revocation: The city reserves the right to revoke any issued permit for any reason. (Ord. 2012-10, 12-4-2012)

5-5-5: LIABILITY:

Any person discharging a firearm or shooting a weapon assumes total

liability for the discharge. (Ord. 2012-10, 12-4-2012)

5-5-6: PENALTY:

A. Firearms Discharge: Violation of section 5-5-2 of this chapter shall be a class B misdemeanor, subject to penalty as provided in section 1-4-1 of this code, unless it results in "serious bodily injury", as defined by Utah Code Annotated section 76-1-601, then it shall be a **class A misdemeanor**.

For consistency, suggest inclusion of underlined. Agree?

Response: Yes ☒ X ☐, No ☐, or change as follows:

We question the city authority to impose a class A misdemeanor violation per Utah Code Annotated section, which authorizes municipalities to impose up to a class B misdemeanor. The city may desire to review this provision with the city attorney. Please indicate if any omissions or amendments are desired.

Response: **Change Class A to say Class B. Also ensure the UCA reference is correct.**

B. Shooting Weapons: Violation of section 5-5-3 of this chapter shall be a class C misdemeanor, subject to penalty as provided in section 1-4-1 of this code, unless it results in "serious bodily injury", as defined by Utah Code Annotated section 76-1-601, then it shall be a class B misdemeanor, subject to penalty as provided in section 1-4-1 of this code.

For consistency, suggest inclusion of underlined. Agree?

Response: Yes ☒ X ☐, No ☐, or change as follows:

C. Conditional Use Permits: A violation of a condition of an issued conditional use permit (not amounting to a crime) shall be referred to



the city, which may choose to deny or revoke the permit. (Ord. 2012-10, 12-4-2012)

## **CHAPTER 6**

### ANIMAL CONTROL

#### ARTICLE A. GENERAL PROVISIONS

**For statute authority, see UCA §§ 10-8-59, 10-8-65, 10-8-77, title 18.**

**It appears the city may contract with the county for animal control services. We are unsure if this legislation is actually city legislation or county legislation. If the county enforces their own legislation within the city, it is our recommendation that the city NOT codify the county legislation. If the county amends their animal control provisions, the city incurs costs in codifying county legislation. Otherwise, the city code is then out of date.**

**In any event, if the city determines to maintain the following articles in the city code, please be sure the references to "city", "county", "coordinator", etc. are accurately described.**

**Response: The city desires to maintain the following articles in the city code and has reviewed it for accuracy.**

#### SECTION:

- 5-6A--1: Definitions
- 5-6A--2: Enforcement
- 5-6A--3: Fees And Charges
- 5-6A--4: Conditions Of Animal Ownership
- 5-6A--5: Care And Keeping Of Animals
- 5-6A--6: Type, Number And Location
- 5-6A--7: Large Kennels Prohibited
- 5-6A--8: Hobby Breeding
- 5-6A--9: Running At Large
- 5-6A-10: Public Nuisance Animals
- 5-6A-11: Injured Or Diseased Animals
- 5-6A-12: Attacks By Dogs
- 5-6A-13: Vicious Animals And Dogs
- 5-6A-14: Guard Dogs
- 5-6A-15: Wild Animals
- 5-6A-16: Judicially Excluded Animals

5-6A-17: Cruelty To Animals  
5-6A-18: Dog And Animal Fighting  
5-6A-19: Authority To Take Possession; Lien For Care  
5-6A-20: Loss Of Privilege To Maintain Dog  
5-6A-21: Penalty

5-6A-1: DEFINITIONS:

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them:

!DEF! ANIMAL: Birds, reptiles and mammals, other than the genus homo sapiens.

ANIMAL AT LARGE: Any domesticated animal, whether or not licensed, not under restraint.

ANIMAL UNDER RESTRAINT: Any animal under control of its owner or person having charge, care, custody or control, except that a dog shall not be considered under control of the owner unless on a leash or lead, confined within a vehicle, or within the real property limits of the owner.

BITE: An actual puncture, tear or abrasion of the skin, inflicted by the teeth of an animal.

CAT: Any age feline of the domesticated types.

COORDINATOR: The county coordinator of the department of animal regulation.

COUNTY: The unincorporated area of Utah County.

COUNTY ANIMAL SHELTER: The lot, premises or buildings maintained by the county for the confinement and care of the animals seized under the provisions of this chapter.

COUNTY VETERINARIAN: The county veterinarian, his agents or deputies.

DEPARTMENT: The county department of animal regulation, its agents and deputies.

DOG: A canis familiaris of either sex, altered or unaltered, or any other member of the canis genus if owned or kept.

DOG LICENSE: A properly completed and validated dog license

application-rabies certificate form issued by the county or other official dog licensing agency.

DOG LICENSE APPLICATION-RABIES CERTIFICATE FORM: The official dog license application form issued by the county. It is properly completed when it contains:

- A. The dog owner's name, address and telephone number;
- B. The dog's name and description;
- C. The type, lot number and manufacturer of the rabies vaccine;
- D. The date of vaccination;
- E. The signature of the veterinarian who vaccinated the dog or other signature authorized by him.

DOMESTICATED ANIMAL: Any animal accustomed to liveing in or about the habitation of man, including, but not limited to, cats, dogs, fowl, horses, swine, cattle, sheep and goats.

Suggest omission of ~~strikeout~~ text and inclusion of underlined. Agree?

Response: Yes   X  , No       , or change as follows:

GUARD DOG: A working dog which must be kept in a fenced run or other suitable enclosure during business hours, or on leash or under absolute control while working, so it cannot come into contact with the public.

IMPOUNDED ANIMAL: Any animal taken into custody by the department as provided in this chapter.

KENNEL, LARGE: Any lot, building, structure, enclosure or premises whereupon or wherein five (5) or more dogs over four (4) months of age are kept or maintained for any purpose, including boarding, breeding, buying, grooming, letting for hire, training for fee or selling. **A large kennel is not allowed in the city.**

This legislation is duplicated at section 5-6A-7 of this article. As such, suggest omission in this definition. Agree?

Response:   X   Yes;        No

KENNEL, SMALL: An enclosure for the number of dogs allowed by this chapter.

LEASH: Any rope, leather strap, chain or other material being held in the hand of the person capable of control and actually controlling the animal to which it is tied.

LICENSE TAG: A piece of metal or other durable material inscribed with a date and number which has been issued by county or other official dog licensing agency.

LICENSED DOG: A dog wearing its current dog license tag as required by this chapter.

LIVESTOCK: This term is confined to the ordinary use of the word and includes only domestic animals ordinarily raised or used on farms. It includes the following animals, among others: Cattle (both dairy and beef cattle), sheep, swine, horses, mules, donkeys, and goats. It does not include such animals as poultry, rats, mice, guinea pigs, and hamsters.

NEUTERED: Having had the testicles removed; a castrated animal.

OWNER: Any person who is the legal owner, keeper, possessor or the actual custodian of an animal. Ownership is established by a person registering as owner on a license or other legal document, or being a person claiming ownership and taking possession of an animal.

QUARANTINE: The isolation of an animal under the observation of a licensed veterinarian or in the custody of the animal shelter in a substantial enclosure so that the animal is not subject to contact with other animals or unauthorized persons.

SPAYED: Having had the ovaries and uterus removed or extirpated; an ovariectomy.

STRAY: An animal which is at large.

VACCINATED DOG: A dog inoculated with an approved, currently valid, antirabies vaccine, and wearing a current dog license tag indicating proof of such vaccination. !DEFEND!

VICIOUS ANIMAL: A. An animal:

1. With a known propensity, tendency or disposition to attack unprovoked, to cause injury to, or to otherwise endanger the safety of humans or other domestic animals; or
2. Which attacks a human being or other domestic animal without provocation; or

Suggest inclusion of underlined. Agree?

Response: Yes \_\_ **X** \_\_, No \_\_\_\_, or change as follows:

3. Which is trained or used as a fighting animal.

B. This provision shall not apply to dogs owned or used by a government entity.

WILD ANIMALS: A. Any animals of a species that in their natural life are wild, including hybrids and animals which, as a result of their natural or wild condition, cannot be vaccinated effectively for rabies. These animals, however domesticated, shall be limited to:

1. Alligators and crocodiles;
2. Bears (Ursidae). All bears, including grizzly bears, brown bears, black bears, etc.;
3. Cat family (Felidae). All except the commonly accepted domesticated cats, and including cheetah, cougar, leopard, lion, lynx, panther, mountain lion, tiger, wildcat, etc.;
4. Dog family (Canidae). All except domesticated dogs, and including wolf, part wolf, fox, part fox, coyote, part coyote, dingo, etc.;
5. Porcupine (Erethizontidae);
6. Primate (Nonhuman). All subhuman primates;

7. Raccoon (Prosynnidae). All raccoons, including eastern raccoon, desert raccoon, ringtailed cat, etc.;

8. Skunks;

9. Venomous fish and piranha;

10. Venomous snakes and lizards;

11. Weasels (Mustelidae). All weasels, including weasels, martens, wolverines, ferrets, badgers, otters, ermine, mink, mongoose, etc.

B. Despite the restrictions stated above, there shall be an exception granted to persons raising "wild animals", as defined in subsection A of this definition, for their pelts as a legitimate commercial purpose.

C. The keeping of any wild animal which existed prior to the effective date hereof may be continued, except that if it is discontinued for one year or more, it shall then be deemed abandoned and any future keeping of wild animals shall be in conformity with this chapter. (Ord. 2005-01, 1-13-2005)

#### 5-6A-2: ENFORCEMENT:

A. Generally:

1. The department, each agent or deputy thereof who is assigned to duties which include the enforcement of animal regulation laws, and any peace officer, are responsible for enforcing the provisions of this chapter and other provisions of state law which they have a duty to enforce.

2. Each of the individuals referred to in subsection A1 of this section shall have the power to make arrests for violations of those provisions of this chapter and of state law which he has a duty to enforce and to issue citations for such violations.

B. Right Of Entry For Enforcement: In the enforcement of any provision of this chapter, any animal regulation officer or authorized agent or deputy may enter the premises of any person to take possession of any animal in violation of this chapter.

C. Investigations: The department, public health officer and any peace officer may enter privately owned land to investigate reports of vicious

animals, rabies or other contagious animal diseases, and to investigate violations of and enforce the provisions of this chapter.

D. Power And Authority Of Animal Regulation Officer: In the performance of his duties, the animal regulation officer is hereby vested with the power and authority of deputies within the county sheriff's office. Badges of authority shall be issued by the county sheriff, and the recipient thereof shall be duly sworn in as a deputy sheriff of the county.

E. Hindering And Obstructing Enforcement: It shall be unlawful for any person to interfere with, molest, hinder or prevent the animal regulation officer from discharging his duties. Any person who shall hinder, delay, interfere with or obstruct the animal regulation officer while engaging in capturing, securing or taking to the animal shelter any animal or animals to be impounded, or who shall break open or in any manner directly or indirectly aid, counsel or advise the breaking open of any animal shelter or ambulance, wagon or other vehicle used for the collecting or conveying of any animals to the shelter, shall be deemed guilty of a **class B** misdemeanor, subject to penalty as provided in section 1-4-1 of this code. (2005-01, 1-13-2005)

Utah Code Annotated section 76-3-104 provides an offense designated as a misdemeanor or any act prohibited or declared to be unlawful when no other specification as to punishment or category is made, is a class B misdemeanor. As such, may the reference of "class B" be included?

Response: Yes \_\_\_ **X** \_\_\_, No \_\_\_\_\_ (please explain below)

Also, for consistency, suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes \_\_\_ **X** \_\_\_, No \_\_\_\_\_, or change as follows:

#### 5-6A-3: FEES AND CHARGES:

The fees and charges which may be imposed under the provisions of this chapter shall be as determined and established by resolution by the city council from time to time and on file in the office of the city recorder.

(Ord. 2005-01, 1-13-2005)

5-6A-4: CONDITIONS OF ANIMAL OWNERSHIP:

Animal owners or keepers shall comply with the following conditions of animal ownership, and the department may require as a condition of licensing such owners or keepers to sign a contract agreeing to comply with such conditions:

A. Restrain, Confinement: Animals shall be restrained or confined as required by law.

B. Humane Treatment: Animals shall be humanely treated at all times.

C. Vaccinations, Licenses: Vaccinations, licenses and permits shall be obtained as required by law.

D. Sanitary Premises: Animal premises shall be kept sanitary and shall not constitute a fly breeding reservoir, a source of offensive odors or of human or animal disease.

E. Disturbance, Nuisance Prohibited: Animals and animal premises shall not be permitted to disturb the peace or constitute a public nuisance or hazard. (2005-01, 1-13-2005)

Subsections A, B, D and E above duplicate provisions in section 5-6A-5 following. In order to eliminate duplication legislation which can cause conflicts, Sterling suggests the city consider omitting this section entirely. Subsection C could be added to section 5-6A-5 following. Does the city agree with this recommendation?

Response: \_\_\_ **X** \_\_\_ Yes; \_\_\_\_\_ No (please specify if any amendments are desired)

5-6A-5: CARE AND KEEPING OF ANIMALS:

A. Housing Facilities: Housing facilities for animals shall be structurally sound and shall be maintained in good repair, to protect the animals from injury, to contain the animals, and to restrict the entrance of other animals.



B. Food And Water: All animals shall be supplied with sufficient good and wholesome food and fresh water as often as the feeding habits of the respective animals require.

C. Sanitation: All animals and all animal buildings or enclosure shall be maintained in a clean and sanitary condition.

D. Odor, Noise Control: All animals shall be so maintained so as to eliminate excessive odor and noise.

E. Minimum Attention: No animal shall be without attention more than twenty four (24) consecutive hours.

F. Humane Treatment: Animals shall be treated humanly and no conditions shall be maintained or permitted that is or could be injurious to the animal.

G. Enclosures: Animal buildings and enclosures shall be so constructed and maintained as to prevent escape of the animal. All reasonable precautions shall be taken to protect the public from the animal and the animal from the public.

H. Building Construction: Every building or enclosure wherein animals are maintained shall be constructed of a material easily cleaned and shall be kept in a sanitary condition. The building shall be properly ventilated to prevent drafts and to remove odors. Heating, cooling and shelter shall be provided as required according to the physical need of the animal, with sufficient light to allow observation of animals and sanitation.

I. Medical Treatment: Medical treatment shall be provided as necessary in order to maintain the health of the animals.

J. Sufficient Accommodations: All animal rooms, cages, kennels and runs shall be of sufficient size to provide adequate and proper accommodations for the animals kept therein.

K. Placement: Owners shall not allow animals which are natural enemies, temperamentally unsuited or otherwise incompatible, to be quartered together or so near each other as to cause injury, fear or torment.

L. Wild Animals: All wild animals permitted pursuant to this chapter shall be maintained in buildings, enclosed yards or cages as specified by the coordinator and such shall be kept at distances from adjacent buildings **as specified in the city zoning ordinance.**

**The zoning ordinance does not make such provision for wild animals. Please advise.**

**Response: Remove reference to city zoning ordinance.**

M. Entrance Upon Premises: Representatives of county sheriff's department or other duly designated representatives of the county or city may enter any premises where animals are maintained for investigation or inspection as to whether or not any portion of such premises, building, structure, enclosure, pen or cage is being used, kept or maintained in violation of this chapter or any other ordinance. This subsection does not permit any person to enter a private dwelling except where necessary to rescue an animal. (Ord. Ord. 2005-01, 1-13-2005)

5-6A-6: TYPE, NUMBER AND LOCATION:

A. Number Of Dogs, Cats: No person may harbor or possess more than four (4) dogs or more than four (4) cats, four (4) months of age or older, **without purchasing a kennel license or a hobby breeder's license.** Ownership of more than four (4) cats without said licenses must be approved by the animal regulation coordinator for a legitimate business purpose.

We do not find that the city licenses kennels. A small kennel is defined as an enclosure, not a licensed business. Large kennels are prohibited under section 5-6A-7 of this chapter. Also, section 5-6A-8 of this article prohibits hobby breeding. Please advise if the above bolded text should be omitted.

**Response: Please omit bolded text**

**B. Livestock:** From the effective date hereof, the keeping of livestock is subject to the following regulations:

With regard to this subsection, the city may desire to consider what constitutes permitted "livestock" and "farm animals" (see below). Refer to sections 10-8-2 and 10-11-10 of this code workbook.

**Response: No change recommended**

1. No swine or male goats will be permitted;
2. Animals must be kept within an appropriate enclosure;
3. The area where the animals are kept must be kept clean, free of objectionable odor, free of excessive accumulations of manure and must comply with the humane care requirements as stated in this chapter;
4. There must be a minimum of one acre;
5. Two (2) livestock animals (including horses) may be kept on the initial one full acre. For each subsequent full acre, an additional livestock animal shall be allowed;
6. No livestock may be corralled within eighty feet (80') of any dwelling unit.

C. Rabbits, Hamsters, Guinea Pigs: All rabbits, hamsters and guinea pigs harbored within the city shall be kept clean and free from odor. They shall be kept penned and not allowed to trespass on another's property. (Ord. 2005-01, 1-13-2005)

#### 5-6A-7: LARGE KENNELS PROHIBITED:

Large kennels, as defined in section 5-6A-1 of this article, are not permitted. (Ord. 2005-01, 1-13-2005)

#### 5-6A-8: HOBBY BREEDING:

Hobby breeding is not allowed. Hobby breeding is not for profit breeding similar to commercial breeding. The occasional producing of offspring of family pets is not considered hobby breeding. (Ord. 2005-01, 1-13-2005)

Suggest inclusion of underlined. Agree?

Response: Yes   X  , No       , or change as follows:

5-6A-9: RUNNING AT LARGE:

A. Dogs:

1. It is unlawful for the owner or person having charge, care, custody or control of any dog to allow such dog at any time to run at large. The owner or person charged with responsibility for a dog found running at large shall be strictly liable for any violations committed by the dog, regardless of whether or not the person knows the dog is running at large.

2. However, dogs may be at large while participation in field trials and obedience classes organized and sanctioned by recognized dog clubs, while assisting their owner or trainer in legal hunting, or in herding of livestock, while assisting a peace officer engaged in law enforcement duties, or while being trained for the above purposes so long as such dogs are under direct and effective sound or gesture control within sight of such individuals to assure that they do not violate any other provisions of law.

B. Cats: It is unlawful for the owner or person having charge, care, custody or control of any cat to allow such cat to run at large on the property of another. The owner or person charged with responsibility for a cat found running at large shall be strictly liable for any violations committed by the cat, regardless of whether or not the person knows the cat is running at large.

C. Livestock:

1. It is unlawful for any person owning or having the custody, possession, or control of an animal of a class of livestock or fowl to allow, either negligently or with specific intent, the animal to run at large.

2. All fencing of property where a class of livestock or fowl is kept shall be of sufficient construction to prevent the escape of or injury to the animals being confined within the fencing. The fencing shall be maintained so that no part of such fence, absent extraordinary circumstances, may be broken, damaged or in any way create the possibility of injury to the confined animal or to allow the escape thereof.

3. Any animal in violation of this subsection may be impounded. (Ord. 2005-01, 1-13-2005)

Suggest the above subsection C3 be amended to subsection D, making the violation

applicable to the entire section, not just livestock. Agree?

Response:   X   Yes;        No

5-6A-10: PUBLIC NUISANCE ANIMALS:

A. Prohibited: The introduction, possession or maintenance of any animal, or the allowing of any animal to be in contravention of this chapter is, in addition to being a class B misdemeanor and subject to penalty as provided in section 1-4-1 of this code, hereby declared to be a public nuisance. The department, public health officer and peace officers are hereby authorized, directed and empowered to summarily abate any such public nuisance by any means reasonably necessary, including, but not limited to, the destruction of the animal or animals involved.

As specified above in this chapter, suggest inclusion of the underlined. Agree?

Response:   X   Yes;        No

B. Animals Declared Public Nuisance: Any animal which does any of the following shall be deemed a nuisance:

1. Causes damage to the property of anyone other than its owner or custodian;
2. Is a "vicious animal", as defined in section 5-6A-1 of this article, and kept in a manner contrary to this chapter;
3. Causes unreasonable fouling of the air by odors;
4. Causes unsanitary conditions in enclosures or surroundings;
5. Defecates on any public sidewalk, park or building, or on any private property without the consent of the owner of such private property, unless the owner or custodian of such animal shall remove any such defecation to a proper trash receptacle. Unsighted persons while relying on a guide dog shall be exempt from this subsection;
6. Barks, whines, howls, crows or makes other disturbing noises in an

excessive, continuous or untimely fashion;

7. Molests passersby or chases passing vehicles;

8. Attacks other domestic animals;

9. Otherwise acts so as to constitute a nuisance or public nuisance under the provisions of title 4, chapter 1 of this code.

C. Determination Of Nuisance: An animal is a nuisance if it is determined by the department to be a nuisance by virtue of being offensive or dangerous to the public health, welfare or safety.

**D. Number Maintained:** Any animals which, by virtue of the number maintained are determined by the department to be offensive or dangerous to the public health, welfare or safety. (Ord. 2005-01, 1-13-2005)

It appears this subsection D should be placed as subsection B9 (renumber B9 and B10) as the language does not stand alone. Agree?

Response: ☒ Yes; ☐ No

#### 5-6A-11: INJURED OR DISEASED ANIMALS:

No person shall knowingly harbor or keep any dog or other animal with a serious injury or afflicted with mange, ringworm, distemper or any other contagious disease, unless such a dog or other animal is, in the opinion of the department or the county veterinarian, being given adequate treatment for such disease. The department or the county veterinarian may take immediate possession of any such animal not being so treated or which is not responding to such treatment, and immediately dispose of the animal, unless the owner shall forthwith place such animal under the control and treatment of a ~~licensed~~d veterinarian. (Ord. 2005-01, 1-13-2005)

Suggest omission of ~~strikeout~~ text and inclusion of underlined. Agree?

Response: Yes ☒, No ☐, or change as follows:

#### 5-6A-12: ATTACKS BY DOGS:

A. Prohibited: It is unlawful for the owner or person having charge, care, custody or control of any dog to allow such dog to attack, chase or worry any person, any domestic animal having a commercial value, or any species of hoofed protected wildlife, or to attack domestic fowl. "Worry", as used in this section, means to harass by tearing, biting or shaking with the teeth.

B. Owner Liability: The owner in violation of subsection A of this section shall be strictly liable for violation of this section. In addition to being subject to prosecution under subsection A of this section, the owner of such dog shall also be liable in damages to any person injured, or to the owner of any animals injured or destroyed thereby.

C. Defenses: The following shall be considered in mitigating the penalties or damages, or in dismissing the charge:

1. The dog was properly confined on the premises;
2. The dog was deliberately or maliciously provoked.

D. Dogs May Be Killed: Any law enforcement officer may kill a dog while it is committing any of the acts specified in subsection A of this section, or while the dog is being pursued thereafter. (Ord. 2005-01, 1-13-2005)

#### 5-6A-13: VICIOUS ANIMALS AND DOGS:

##### A. Vicious Animals:

1. Deliver To Animal Control: An animal control officer, upon probable cause that a violation of this section has occurred, may require the owner or custodian of a vicious animal to deliver possession of the animal to an animal control officer. If, after demand, the owner or custodian fails or refuses to deliver possession of the animal to an animal control officer, the animal control officer may request an order from a court of competent jurisdiction requiring the owner or custodian to deliver possession of the animal to an animal control officer.

2. Summary Impound: An animal control officer may summarily impound a vicious animal which is at large or which is an immediate danger to humans or domesticated animals.

3. Summary Destruction: If an animal control officer cannot gain control

of a vicious animal, the officer may summarily destroy the animal.

4. Notice Of Impound To Owner: If a vicious animal is impounded without the knowledge of the owner or custodian, notice that the animal has been impounded shall be given to the owner or custodian of the animal, if the same is known, by attaching a notice to a door at the residence thereof or by mailing a notice thereto.

5. Impoundment; Disposition:

a. Court Order: A vicious animal impounded by an order of a court acting pursuant to this section shall be destroyed or otherwise disposed of as the court shall direct.

b. Without Court Order: A vicious animal impounded without a court order shall be held not less than five (5) days, after which it may be destroyed or otherwise disposed of as the supervising control officer may direct.

6. Contest Of Impound Without Court Order: The owner or custodian of an animal impounded other than by a court order may contest the impounding by filing a notice with the proper court within five (5) days after the impounding.

B. Possession Of Vicious Dog:

1. Requirement To Restrain, Confine Or Muzzle: The possession of a vicious dog is unlawful unless it is restrained, confined or muzzled so that it cannot bite or attack any person or animal. Dogs held in violation of this subsection shall be deemed a public nuisance, and their continued possession or ownership shall be unlawful. The department may impound any such dog and dispose of it in any humane manner after five (5) working days to allow for legal restraining action by the owner.

2. Conditions Of Ownership: The following are conditions of ownership of any animal which is fierce, dangerous or vicious:

a. The dog must be kept in a heavy gauge wire dog run which is six feet (6') in height with a secure ceiling and floor.

b. The dog must be kept on a leash and properly muzzled when out of its kennel.

C. Allowing Vicious Animals At Large: Any owner of a vicious animal, knowing its propensities, who willfully allows it to go at large or who keeps it without ordinary care, and any animal while at large, or while not kept with ordinary care, causes injury to another animal or to any



human being who has taken reasonable precaution which the circumstances permitted, is guilty of a class B misdemeanor, **unless the animal causes the death of a human being, whereupon the owner is guilty of a class A misdemeanor.** (Ord. 2005-01, 1-13-2005)

We question the city authority to impose a class A misdemeanor violation per Utah Code Annotated section, which authorizes municipalities to impose up to a class B misdemeanor. The city may desire to review this provision with the city attorney. Please indicate if any omissions or amendments are desired.

**Response: Please remove the reference to a class A misdemeanor and adjust the language to reference Utah State Code instead.**

5-6A-14: GUARD DOGS:

Guard dogs shall be kept in such a manner so that they cannot come into contact with persons or other animals which are legally upon the premises where a guard dog is maintained. The property shall be posted with a sign clearly visible stating that a guard dog is on the premises. (Ord. 2005-01, 1-13-2005)

5-6A-15: WILD ANIMALS:

It is unlawful for any person to sell, offer for sale, barter, give away, keep, own, harbor or purchase any wild animal, except for government agencies or otherwise as provided for by state or federal regulations. (Ord. 2005-01, 1-13-2005)

5-6A-16: JUDICIALLY EXCLUDED ANIMALS:

It shall be unlawful to bring any animal into the city which has in any jurisdiction:

A. Been judicially determined to be vicious, a nuisance or a threat to the health or safety of human beings.

B. Been judicially removed from any county or municipality for violations of the laws or ordinances which by their nature are also in violation of this chapter. (Ord. 2005-01, 1-13-2005)

5-6A-17: CRUELTY TO ANIMALS:

A. Prohibited Acts And Activities: A person commits cruelty to animals if he intentionally or knowingly:

1. Fails to provide any animal in his charge or custody with adequate food, drink, care and shelter.
2. Abandons an animal in his custody.
3. Carries or confines any animal in or upon any vehicle in a cruel or inhumane manner, including, but not limited to, carrying or confining such animal without adequate ventilation or for an unusual length of time.
4. Kills, maims, disfigures, tortures, beats with a stick, chain, club or other object, mutilates, burns, scales, overdrives, overworks or otherwise cruelly set upon any animal. Each offense shall constitute a separate violation.
5. Makes accessible to any animal, with intent to cause harm or death, any substance which has in any manner been treated or prepared with any harmful or poisonous substance. This provision shall not be interpreted so as to prohibit the use of poisonous substances for the control of vermin in furtherance of the public health, when applied in such a manner as to reasonably prohibit access to other animals.
6. Causes any animal, not including a dog, to fight with another animal or creature of like kind for amusement or gain; or causes any animal, including a dog, to fight with a different kind of animal or creature for amusement or gain.

B. Affirmative Defense: It is an affirmative defense to prosecution under this section that the conduct of the actor towards the animal was by a licensed veterinarian using accepted veterinary practice, or directly related to bona fide experimentation for scientific research; provided, that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved.

C. Penalty: Violation of this section is a class B misdemeanor, subject to penalty as provided in section 1-4-1 of this code. (Ord. 2005-01, 1-13-2005)

For consistency, suggest inclusion of underlined. Agree?

Response: Yes \_\_ **X** \_\_, No \_\_\_\_, or change as follows:

5-6A-18: DOG AND ANIMAL FIGHTING:

A. Dog Fighting:

1. It is unlawful for any person to:

- a. Own, possess, keep or train a dog with the intent to engage it in an exhibition of fighting with another dog;
- b. Cause a dog to fight with another dog or cause a dog to injure another dog for amusement or gain;
- c. Tie, attach or fasten any live animal to a machine or device propelled by any power, for the purpose of causing the animal to be pursued by a dog; or
- d. Permit or allow any act which violates subsection A1a, A1b or A1c of this section on any premises under his charge; or to control, aid or abet any such act.

2. Possession of any breaking stick, treadmill, wheel, hot walker, cat mill, cat walker, jenny or other paraphernalia, together with evidence that the paraphernalia is being used or is intended for use in the unlawful training of a dog to fight with another dog, together with the possession of any such dog, is prima facie evidence of violation of subsections A1b and A1c of this section.

3. A person who violates subsection A1 of this section is guilty of a class B misdemeanor, subject to penalty as provided in section 1-4-1 of this code.

For consistency, suggest inclusion of underlined. Agree?

Response: Yes \_\_ **X** \_\_, No \_\_\_\_, or change as follows:

4. It is unlawful for person to knowingly and intentionally be present as a spectator at any place, made for an exhibition of dog fighting, or to knowingly and intentionally be present at a dog fighting exhibition or any other occurrence of fighting or injury described in this subsection. A person who violates this subsection is guilty of a class B misdemeanor, subject to penalty as provided in section 1-4-1 of this code.

For consistency, suggest inclusion of underlined. Agree?

Response: Yes ☒ X ☐, No ☐, or change as follows:

5. Nothing in this subsection shall be interpreted to prohibit any of the following:

a. The use of dogs for the management of livestock by the owner, his employees or agents, or any other person in the lawful custody of livestock;

b. The use of dogs for hunting;

c. The training of dogs or the possession or use of equipment in the training of dogs for any purpose not prohibited by law.

B. Animal Fighting Exhibitions: It is unlawful for a person to knowingly be present as a spectator at any place, building or tenement where preparations are being made for an exhibition of the fighting of animals, as prohibited by subsection 5-6A-17A6 of this article, or to be present at such exhibition, regardless of whether any entrance fee has been charged. A person who violates this subsection is guilty of a class B misdemeanor, subject to penalty as provided in section 1-4-1 of this code.

For consistency, suggest inclusion of underlined. Agree?

Response: Yes ☒ X ☐, No ☐, or change as follows:

C. Authority To Arrest And Take Possession Of Dogs And Property:

1. A deputy animal control officer may enter any place, building or tenement where an exhibition of dog fighting is occurring, or where preparations are being made for such an exhibition, and without a warrant arrest all persons present.

2. Notwithstanding the provisions of section 5-6A-19 of this article, any authorized officer who makes an arrest under subsection C1 of this section may lawfully take possession of all dogs, paraphernalia, implements or other property or things used or employed, or to be employed, in an exhibition of dog fighting prohibited by subsection 5-6A-17A6 of this article or subsection A of this section. The officer, at the time of that taking, shall state his name and provide other identifying information to the person in charge of the dogs or property taken.

3. After taking possession of dogs, paraphernalia, implements or other property under subsection C2 of this section, the officer shall file an affidavit with the judge or magistrate before whom a complaint has been made against any person arrested under this subsection. That affidavit shall include:

- a. The name of the person charged in the complaint;
- b. A description of all property taken;
- c. The time and place of the taking;
- d. The name of the person from whom the property was taken;
- e. The name of the person who claims to own the property, if known;
- f. A statement that the officer has reason to believe and does believe that the property taken was used or employed, or was to be used or employed, in violation of subsection 5-6A-17A6 of this article or subsection A of this section and the grounds for such belief.

4. The officer shall deliver the confiscated property to the judge or magistrate who shall, by order, place the property in the custody of the officer or any other person designated in the order, and that person shall keep the property until conviction or final discharge of the person against whom the complaint was made. The person so designated shall assume immediate custody of that property, and retain that property until further order of the court. Upon conviction of the person charged, all confiscated property shall be forfeited and destroyed or

otherwise disposed of, as the court may order. If the person charged is acquitted or discharged without conviction, the court shall, on demand, order the property to be returned to its owner. (Ord. 2005-01, 1-13-2005)

Suggest inclusion of underlined. Agree?

Response: Yes   X  , No       , or change as follows:

5-6A-19: AUTHORITY TO TAKE POSSESSION; LIEN FOR CARE:

A. Any law enforcement officer may take possession of any animals being treated cruelly and, after reasonable efforts to notify the owner, may provide shelter and care for them or upon permission of the owner destroy them.

B. Officers caring for animals pursuant to this section have a lien for the reasonable value of the care and/or destruction. Any court, upon proof that the owner has been notified of the lien and amount due, at least five (5) days prior, shall order the animal sold at public auction or destroyed.

C. Any law enforcement officer may humanely destroy any animal found suffering past recovery for any useful purpose. Before destroying the animal, the officer shall obtain the judgment of a veterinarian, or of two (2) reputable citizens called by him to view the animal in his presence, or shall obtain consent to the destruction from the owner of the animal. Its owner may be cited and/or charged for impound and sheltering fees. (Ord. 2005-01, 1-13-2005)

5-6A-20: LOSS OF PRIVILEGE TO MAINTAIN DOG:

If the owner or custodian of any dog is convicted of any violation of this chapter on three (3) or more different occasions during any twelve (12) month period, the city may issue an order denying the right of the owner or custodian to maintain a dog in the city for a period of two (2) years. Prior to final denial of such privilege, written notice shall be sent to the owner's or custodian's last known address informing the owner or custodian of the city's intent to deny his privilege of maintaining a dog in the city. (Ord. 2005-01, 1-13-2005)

Since the city also regulates cats at large, is it the intent of the city that this section is only applicable to "dogs", as opposed to "animals"?

Response: Yes, leave as is \_\_\_\_\_, or change as follows: Change the "dog" references to say "animal".

5-6A-21: PENALTY:

Any person violating any provision of this chapter shall be guilty of a **class B** misdemeanor and, unless a different penalty shall be provided for such violation by this chapter, such violation shall be punished subject to penalty as provided in section 1-4-1 of this code. (Ord. 2005-01, 1-13-2005)

Utah Code Annotated section 76-3-104 provides an offense designated as a misdemeanor or any act prohibited or declared to be unlawful when no other specification as to punishment or category is made, is a class B misdemeanor. As such, may the reference of "class B" be included?

Response: Yes   X  , No \_\_\_\_\_ (please explain below)

Also, for consistency, suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes   X  , No \_\_\_\_\_, or change as follows:

CHAPTER 6

ANIMAL CONTROL

ARTICLE B. LICENSING AND REGISTRATION

SECTION:

5-6B-1: Licenses Generally

5-6B-2: Exceptions

5-6B-3: Vaccinations Required

5-6B-4: Voluntary Registration Of Cats

5-6B-1: LICENSES GENERALLY:

A. License Required: All dog owners, except tourists or visitors who stay less than one month in an area coming within the jurisdiction of this chapter, shall apply for and obtain a separate dog license for each dog they own, possess, keep or harbor, after it is four (4) months old. Each license shall be issued by **Utah County, by duly authorized veterinarians, or by municipalities under contract with Utah County.** All dog owners must possess such license at the time the dog is four (4) months old or one month after obtaining or bringing into an area coming within the jurisdiction of this chapter any dog over four (4) months of age. Dog owners shall renew the dog license before it becomes delinquent for as long as they own, possess, keep or harbor, or otherwise have custody of the dog. If renewal is not required, dog owners shall, within two (2) months after the expiration date, advise the department of the reason therefor. Licenses not purchased or renewed within fifteen (15) days after expiration of the date on which they become due, shall be considered delinquent and a late fee as determined by the **board of county commissioners** shall be added to the cost of the new license.

Are the above references correct (said references appearing throughout this article)?

Response: Yes, leave as is   X   or change as follows:

B. Presumption That License Required: Any dog ~~is~~ legally impounded according to the provisions of this chapter shall be presumed to be a dog which, prior to impounding, required a license, regardless of such dog's actual age or owner's place of residence.

Suggest omission of strikeout text. Agree?

Response: Yes   X  , No       , or change as follows:

C. Issuance: Upon presentation by the dog owner of a properly completed license application form, including proof that the rabies vaccination will be valid throughout the license period, the proper license fee and, if applicable, a late or delinquent fee, the **county** shall issue a validated dog license. The dog owner shall retain the dog license for inspection by any person charged with the enforcement of this chapter.

D. Validity; Rabies Vaccination Prerequisite To Issuance: Licenses



shall be valid from the date issued until the expiration date. No dog shall be licensed without proof of approved rabies vaccination. No license may expire later than the expiration date of the rabies vaccination. An owner may purchase a license for twenty four (24) months depending upon the date and kind of vaccine used upon payment of the fee established by the **board of county commissioners**. In the event the owner demonstrates proof of an unexpired rabies vaccination, the license fee shall be appropriately prorated.

E. Lost Or Damaged Tags; Tags To Be Worn; Exception: Whenever a license tag is lost or damaged, the owner shall apply for and secure a replacement from the **county** upon payment of the prescribed fee. Each dog required to be licensed shall wear at all times the current license tag assigned to that dog; except:

1. When the dog is participating in any dog exhibition, field trial or competition; or

2. When the dog is confined in a licensed kennel or veterinary hospital, in which case the license tag number shall be recorded and placed nearby so that it is readily identifiable with the dog with which it belongs; or if not licensed, that fact shall be clearly indicated on the facility's records. A license tag shall not be removed from any dog without the consent of the owner thereof.

F. Duty Of Person Issuing License: Each duly authorized person issuing a dog license for any dog shall complete the license in triplicate. He shall keep one copy any shall give one copy to the owner of the licensed dog, which the owner shall retain in his possession. He shall file the other copy with the **county** on a monthly basis.

G. Transfer License:

1. Owners of dogs having a current license issued by another dog licensing agency may, upon proof of license issued by said agency, be issued a **county** dog license upon payment of the applicable transfer fee. The rabies vaccination for any such dog must be valid for the duration of the license issued.

2. Whenever the ownership of a licensed dog changes, the new owner shall apply for and obtain a transfer license and pay the applicable fee.

3. The address of the owner is presumed to be the address where the dog is kept. Any change of address must be reported to the **county** within one month following such change.

4. Dog owners or the parent or guardian of minor children who sell or

otherwise transfer the ownership or custody of a dog shall, within one month thereafter, inform the department of the name, address and telephone number of the new owner and the name and description of the dog. If the ownership or custody of a vicious dog is transferred, the owner or the custody of a vicious dog is transferred, the owner or the parent or guardian of minor children shall, in addition, advise the new owner in writing of the details of the dog's record and provide the department with a copy thereof containing an acknowledgment by the new owner of his receipt of the original. (Ord. 2005-01, 1-13-2005)

#### 5-6B-2: EXCEPTIONS:

The provisions of this article shall not apply to the following:

A. **Transient, Show Dogs:** Dogs whose owners are nonresidents temporarily within the **county** for thirty (30) days or less, or dogs brought into the **county** for purpose of participating in any dog show.

B. **Dog Maintained In Licensed Kennel:** Any dog which has not reached the age of four (4) months or any dog kept or maintained exclusively in a **licensed kennel** shall not be registered and no fee is required.

Refer to our comments at subsection 5-6A-6A of this chapter regarding "licensed kennels", indicating the necessary amendment above.

**Response: Please omit Section 5-6B-2 Subsection B as the city does not allow licensed kennels.**

C. **Seeing Eye, Hearing And Law Enforcement Dogs:** Any dog which has been duly or properly trained to assist the blind, deaf or law enforcement personnel and is currently acting in that capacity.

D. **Dogs Maintained By Impecunious Person:** If any person shall furnish evidence satisfactory to the department that such person, by reason of unavoidable poverty, merits exemption from the payment of any fees or charges by this article, the dog shall be registered but the department shall waive the payment of any such fees or charges.

E. **Service Dogs:** Police service dogs. (Ord. 2005-01, 1-13-2005)

#### 5-6B-3: VACCINATIONS REQUIRED:

A. Dogs:

1. Vaccination Required: Dog owners shall obtain a rabies vaccination for each dog they own, keep, harbor or have custody of, within one month after it becomes four (4) months of age, or within one month after obtaining any dog over four (4) months of age. It shall be unlawful for any person or persons to own, keep, harbor or possess, or to have in his or her care, charge or custody, any dog four (4) months of age or over unless such dog has a current and valid rabies vaccination administered by any duly qualified and licensed veterinarian, with a rabies vaccine approved by the state department of health for use in dogs. Such vaccination shall be repeated at intervals specified by the state department of health in order to maintain adequate immunity.

2. Exemption From Rabies Vaccination During Illness: Notwithstanding any other provisions of this chapter, a dog need not be vaccinated for rabies during an illness if a licensed veterinarian has examined the dog and certified in writing that such vaccination should be postponed because of a specified illness. Old age, debility and pregnancy are not considered contraindications to rabies vaccination. Exemption certificates are subject to approval by the department and shall be valid only for the duration of the illness. Exemption from vaccination does not exempt a dog from the licensing requirement.

B. Cats: Cat owners shall obtain a rabies vaccination for each cat they own, keep, harbor or have custody of, within one month after it becomes four (4) months of age, or within one month after obtaining any cat over four (4) months of age. It shall be unlawful for any person or persons to own, keep, harbor or possess, or to have in his or her care, charge or custody, any cat four (4) months of age or over unless such cat has a current and valid rabies vaccination administered by any duly qualified and licensed veterinarian, with a rabies vaccine approved by the state department of health for use in cats. Such vaccination shall be repeated at intervals specified by the state department of health in order to maintain adequate immunity. (Ord. 2005-01, 1-13-2005)

5-6B-4: VOLUNTARY REGISTRATION OF CATS:

The owner of any cat may, upon submission of proof of rabies vaccination, certified to by a licensed veterinarian, and upon payment of the fee established by resolution of the **board of county commissioners**, be issued a license certificate and tag. No person shall remove a registration tag from a cat without the consent of the owner thereof. Licensing shall be valid for the period of rabies vaccination. The obtaining of such a license shall be optional on the part of the owner. (Ord. 2005-01, 1-13-2005)

## **CHAPTER 6**

### ANIMAL CONTROL

#### ARTICLE C. RABIES CONTROL

##### SECTION:

- 5-6C-1: Report Of Bites
- 5-6C-2: Report Of Suspected Rabid Animal
- 5-6C-3: Animals Possibly Exposed To Rabies
- 5-6C-4: Quarantine
- 5-6C-5: Examination Of Head
- 5-6C-6: Domesticated Animals
- 5-6C-7: Release

##### 5-6C-1: REPORT OF BITES:

All persons bitten and the parents or guardians of minor children bitten by a dog, cat, skunk, fox, bat, coyote, bobcat or other animal known to constitute a serious threat of rabies shall notify the department or city-county health department immediately thereafter. Physicians treating such bites and other persons having the knowledge of such bites shall also be required to make such notification. (Ord. 2005-01, 1-12-2005)

##### 5-6C-2: REPORT OF SUSPECTED RABID ANIMAL:

Any person who observes or has knowledge of an animal which shows symptoms of rabies or which acts in a manner which would lead to a reasonable suspicion that it may have rabies shall notify the department or city-county health department and comply with appropriate laws and regulations regarding suspected cases of rabies as directed by the department or city-county health department. (Ord. 2005-01, 1-12-2005)

##### 5-6C-3: ANIMALS POSSIBLY EXPOSED TO RABIES:

Any animal of a species subject to rabies which has been bitten by a known rabid animal or bat, or which has been in intimate contact with such an animal, shall be isolated, at the owner's expense if owned, in strict confinement in a place and manner approved by the department or public health officer and observed by a licensed veterinarian for a period of six (6) months or destroyed. Notwithstanding the foregoing,

the following alternative is permitted in case of dogs and cats. If the dog or cat has been vaccinated against rabies at least thirty (30) days prior to the suspected exposure with a type of vaccine produced under USDA license and within the time period approved by the state veterinarian, the dog or cat may be revaccinated in a manner prescribed by the department or the health department and isolated in strict confinement in a place and manner approved by the department or public health officer and observed by a licensed veterinarian for a period of thirty (30) days. (Ord. 2005-01, 1-12-2005)

#### 5-6C-4: QUARANTINE:

Upon the reasonable order of the department or public health officer, a biting or suspected rabid animal shall be, at the owner's expense if owned, in strict confinement under property care and under the observation of a licensed veterinarian in an animal shelter, veterinary hospital or other adequate facility in a manner approved by the department or city-county health department. (Ord. 2005-01, 1-12-2005)

Suggest omission of ~~strikeout~~ text. Agree?

Response: Yes ☒ X ☐, No ☐, or change as follows:

#### 5-6C-5: EXAMINATION OF HEAD:

Any biting or suspected rabid animal or bat may be humanely euthanized immediately by the department or the health department, and such animal's undamaged and properly packaged and properly refrigerated head shall be delivered promptly to an approved medical facility having the capability of performing the fluorescent antibody test to demonstrate the presence of rabies. (Ord. 2005-01, 1-12-2005)

#### 5-6C-6: DOMESTICATED ANIMALS:

The provisions of section 5-6C-5 of this chapter notwithstanding, if the biting or suspected rabid animal is of the domesticated variety that is owned or obviously could have an owner, said animal shall be confined for a period of ten (10) days to allow time for an attempt to locate an owner, unless the county veterinarian or other licensed veterinarian shall reasonably deem it necessary to sacrifice the animal for the purpose of laboratory examination. (Ord. 2005-01, 1-12-2005)

5-6C-7: RELEASE:

Ten (10) days after the day of infliction of a bite by an animal, said animal may be released to its owner or sold by the department after a licensed veterinarian has examined that animal and in his opinion found it not to have had rabies in a transmittable state on the day of infliction of said bite. Nonimmunized animals shall be vaccinated for rabies before release to owner. (Ord. 2005-01, 1-12-2005)

## **CHAPTER 6**

### ANIMAL CONTROL

#### ARTICLE D. IMPOUNDMENT

##### SECTION:

- 5-6D--1: Impoundment Authorized
- 5-6D--2: Animals To Be Impounded
- 5-6D--3: Capture By Individuals
- 5-6D--4: Information Upon Relinquishment
- 5-6D--5: Notice To Owner
- 5-6D--6: Redemption By Owner
- 5-6D--7: Holding Period
- 5-6D--8: Disposal Of Unredeemed Animals
- 5-6D--9: Destruction Of Animals
- 5-6D-10: Redemption Of Unvaccinated Animal
- 5-6D-11: Vaccination
- 5-6D-12: Establishment Of Animal Disposal Facilities

##### 5-6D-1: IMPOUNDMENT AUTHORIZED:

The department, peace officers and persons employed for animal regulation purposes by the **county** shall attempt to capture any animal found at large in violation of this chapter and may destroy an animal at large if, in their judgment, such action is required for public health and safety. (Ord. 2005-01, 1-12-2005)

Is the reference to "county" correct, as opposed to "city"?

Response: Yes, leave as is   X   , or change as follows:

#### 5-6D-2: ANIMALS TO BE IMPOUNDED:

The following animals may be taken into custody by an animal regulation deputy and impounded without the filing of a complaint:

- A. Any vicious animal not properly confined as required by this chapter.
- B. Any animal running at large.
- C. Any unlicensed animal which is required by this chapter to be licensed. Any animal not wearing a tag shall be presumed to be unlicensed for purposes of this section, except those dogs specifically exempted.
- D. Sick or injured animals whose owner cannot be located.
- E. Any abandoned animal.
- F. Animals which are not wearing a rabies vaccination tag in accordance with the requirements of this chapter.
- G. Any animal to be held for quarantine.
- H. Any animal being kept or maintained contrary to the provisions of this chapter. (Ord. 2005-01, 1-12-2005)

#### 5-6D-3: CAPTURE BY INDIVIDUALS:

Any person who finds an animal at large may take it into his possession and must, within twenty four (24) hours thereafter, notify the department and surrender the animal to the department upon demand. No such action shall result in a charge against the city or county. The finder of an animal at large shall use reasonable care to preserve it from injury; however, he shall not be held liable if the animal dies, escapes or injures itself while he is carrying out the provisions of this section, except as occasioned by his own negligence. (Ord. 2005-01, 1-12-2005)

#### 5-6D-4: INFORMATION UPON RELINQUISHMENT:

Any person who relinquishes an animal to the department shall give his name, address and, if he is not the owner, the location where he found the animal. (Ord. 2005-01, 1-12-2005)

5-6D-5: NOTICE TO OWNER:

Upon receipt of a lost or stray animal bearing a current year's license tag, the department shall immediately telephone or mail to the owner of record at the address indicated on the license form, a notice of the location of the animal. Compliance with notice requirements of this section shall be deemed as met if the department shall have mailed the notice to the owner of record at his address of record, postage prepaid. (Ord. 2005-01, 1-12-2005)

5-6D-6: REDEMPTION BY OWNER:

The owner of an impounded animal may claim it prior to its legal disposition by providing proper identification, meeting all the legal requirements, and paying the applicable redemption fees for impoundment, board, medical care, vaccination and/or other costs. (Ord. 2005-01, 1-12-2005)

5-6D-7: HOLDING PERIOD:

The department shall hold an impounded lost or stray dog or cat for not less than three (3) working days if it was not wearing a current year's license tag when impounded, and for not less than five (5) working days after notice is given pursuant to this article if it was wearing a current year's license tag, so that the owner or custodian may claim it prior to other disposition. (Ord. 2005-01, 1-12-2005)

5-6D-8: DISPOSAL OF UNREDEEMED ANIMALS:

The department may dispose of humanely, or may transfer to a new owner upon payment of the applicable fee, any impounded animal not claimed by its owner or custodian within the prescribed holding time. Animals relinquished by their owners may be humanely destroyed without regard to the prescribed holding time in order to alleviate suffering or to protect other impounded animals from exposure to a contagious disease. (Ord. 2005-01, 1-12-2005)

5-6D-9: DESTRUCTION OF ANIMALS:

When, in the judgment of the animal regulation coordinator, it is determined that an impounded animal should be destroyed for humane reasons, disease control or to protect the public or animal regulation personnel from imminent danger to persons or property, such animal may



be destroyed without regard to any time limitations otherwise established herein, and without court order. (Ord. 2005-01, 1-12-2005)

5-6D-10: REDEMPTION OF UNVACCINATED ANIMAL:

A. All unvaccinated animals at the county animal shelter may be vaccinated before being released. The person taking custody of the animal shall pay for the cost of the vaccination before the animal is released.

B. If veterinarian is not available, then the owner of any impounded animal which has not been vaccinated as required by this chapter, upon satisfactory proof of ownership, may redeem his animal by making a deposit of **ten dollars (\$10.00)** with the coordinator and be allowed ten (10) days to get such animal vaccinated. If the owner fails to procure a vaccination certificate within such ten (10) days, the deposit shall be forfeited and the animal shall be impounded. Upon presentation within such period of time of a certificate of vaccination issued under this chapter, the deposit shall be refunded. (Ord. 2005-01, 1-12-2005)

Is the above deposit amount correct and sufficient?

Response: Yes, leave as is \_\_\_\_\_, or change as follows: **Remove ten dollars and insert language to say "...making a deposit as required by the south Utah Valley Animal Shelter."**

5-6D-11: VACCINATION:

Any animal impounded at the county animal shelter may be vaccinated for disease control. (Ord. 2005-01, 1-12-2005)

This provision is duplicated at subsection 5-6D-10 of this article. As such, should this section be omitted?

Response: ☒ Yes; ☐ No

5-6D-12: ESTABLISHMENT OF ANIMAL DISPOSAL FACILITIES:

The department shall establish at the county animal shelter a humane procedure for euthanasia of animals. The department may, at its option, upon payment of applicable fees, accept animals for humane disposal. The owner or possessor of such animals shall first complete appropriate forms setting forth the facts constituting such ownership and/or possession, certifying that he has the right to request disposal of such animals and agree to hold the county, its agents and employees harmless from any liability for its acceptance and disposal of such animals. The owner or person requesting the disposal of any animal shall certify in writing that, to the best of his knowledge, the animal has not bitten a human being or animal within the period established by this chapter for isolation of biting animals and suspected rabid animals. Notwithstanding the foregoing, the department, the health officer, or the county veterinarian may authorize, with permission of the owner if known, the euthanasia of a biting animal for the purpose of laboratory examination. (Ord. 2005-01, 1-12-2005)

## **TITLE 6 (N/A)**

## **TITLE 7**

### CHAPTER 1

#### STREETS, SIDEWALKS AND PUBLIC WAYS

**For statute authority, see UCA §§ 10-8-8, 10-8-11.**

#### SECTION:

- 7-1-1: Street Department And Superintendent
- 7-1-2: Structures On Streets
- 7-1-3: Tampering With Traffic Barricades
- 7-1-4: Injury To Public Streets
- 7-1-5: Driveway Construction

#### 7-1-1: STREET DEPARTMENT AND SUPERINTENDENT:

##### A. Street Department Created; Appointments:

1. There is hereby created a street department, which shall consist of a superintendent and such other employees as shall be provided for by the city council from time to time. The superintendent and other employees shall be appointed by the mayor with the advice and consent of the city council.

2. The mayor may appoint a member of the city council as superintendent.

A member of the city council who serves as superintendent shall report to the mayor for administrative purposes as provided by section 1-6A-1 and subsection 1-6A-3A of this code.

B. Duties Of Superintendent: The superintendent of the street department shall:

1. Administer the public streets in the city;
2. Maintain all public streets and walks in the city;
3. Control all signs and structures on public streets in the city;
4. Exercise control over the construction of public streets; and
5. Place such signs, pavement markings and other traffic control devices which conform to the manual on uniform traffic control devices as the superintendent determines to be necessary for safe and efficient use of the public streets. (Ord. 2005-06, 5-11-2005)

#### 7-1-2: STRUCTURES ON STREETS:

A. Structure Defined: As used in this section, "structure" means any sign, signpost, signboard, arch, advertisement, merchandise, material, flag, banner, rack, fence, object or other structure erected, located, deposited or placed above, over, in or upon any street.

B. Permit Required: It shall be unlawful for any person to erect or place any structure upon any public street within the city, or for any person owning or having control of any structure used for private purposes and now existing upon any public street within the city to suffer or permit such structure to so remain, without first obtaining a permit to do so from the city council, and then only in strict compliance with the terms of the request. The city council may grant or deny such permit or impose additional conditions from time to time when it deems it to be in the best interest of the city in regulating the use of public streets.

C. Application For Permit: Application for a permit to place a structure upon any public street in the city shall be in writing and shall be accompanied with plans and specifications of the structure. The application shall include the name and address of the applicant, the place proposed to erect the structure, the length of time it is proposed to maintain the structure, and such other information as the city council may require.

D. Resolution Authorizing: The city council may by resolution authorize the superintendent of the street department to issue permits to place

certain structures upon a street under conditions and restrictions as may be specified in the resolution.

E. Revocation, Alteration Or Modification: All permits granted under this section may be revoked, altered or modified by the city council whenever the city council shall deem it to be in the best interest of the city. It shall be unlawful for any person to fail to comply with any order or condition imposed by the city council.

F. Removal Of Structures In Violation: Any structure now located or which may hereafter be erected or placed above, over, in, or on any part of any street for which a permit has not been issued or which does not comply with a permit that has been issued under this section shall be removed by the owner or person having charge or control of the structure within a reasonable time, not to exceed thirty (30) days, after the owner or person having charge or control of the structure is notified by the superintendent to remove the same.

G. Penalty: Violation of this section is a class C misdemeanor, subject to penalty as provided in section 1-4-1 of this code. (Ord. 2005-06, 5-11-2005)

For consistency, suggest inclusion of underlined. Agree?

Response: Yes **X**, No \_\_\_\_\_, or change as follows:

7-1-3: TAMPERING WITH TRAFFIC BARRICADES:

~~It~~ shall be unlawful without authorization to extinguish, remove or diminish a light illuminating any barricade or excavation, or to tear down, remove in any manner or alter any rail, fence or barricade protecting any excavation or other construction site. Violation of this section is a class B misdemeanor, subject to penalty as provided in section 1-4-1 of this code. (Ord. 2005-06, 5-11-2005)

Suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes **X**, No \_\_\_\_\_, or change as follows:

7-1-4: INJURY TO PUBLIC STREETS:

A. It shall be unlawful for any person to:

1. Walk upon or drive any vehicle, equipment or animal upon, or in any manner whatsoever injure any newly laid street or sidewalk pavement or surface; or
2. Knowingly injure ye any soft or newly laid pavement; or
3. Operate or drive any tracked or other vehicle or equipment on any street, driveway or sidewalk in such a manner as to damage the surface of the street, driveway or sidewalk; or
4. Operate or drive any vehicle or equipment whose weight is greater than the licensed weight or whose weight is greater than any posted weight limit on any public street.

B. Penalty: Violation of this section is a class B misdemeanor, subject to penalty as provided in section 1-4-1 of this code. (Ord. 2006-09, 6-27-2006)

**Suggest omission of strikeout text and inclusion of underlined. Agree?**

**Response: Yes \_\_ ~~X~~ \_\_, No \_\_\_\_\_, or change as follows:**

7-1-5: DRIVEWAY CONSTRUCTION:

A. Permit Required: No driveway connecting to a public street shall be constructed, except under a permit as required by chapter 2 of this title.

B. Requirements: Each driveway connected to a public street shall:

1. Comply with all provisions of the zoning ordinance, subdivision ordinance, construction standards which have be adopted by the city council; and
2. Have a hard surface constructed of Portland cement concrete, asphalt cement concrete or such other hard surface as the street superintendent shall approve.

C. Length Of Hard Surface: The hard surface required by subsection B2 of this section shall cover the entire width of the driveway from the point where the driveway meets the travelled way of the public street to the shorter of: 1) the entire length of the driveway; or 2) fifty feet (50') beyond the right of way line of the public street. (Ord. 2009-06, 9-24-2009)

## CHAPTER 2

### EXCAVATIONS OR ALTERATIONS OF PUBLIC STREETS

**For statute authority, see UCA §§ 10-8-8, 10-8-11.**

#### SECTION:

- 7-2-1: Definitions
- 7-2-2: Permit Required; Considerations
- 7-2-3: Application For Permit
- 7-2-4: Emergency Circumstances
- 7-2-5: Fees For Permit
- 7-2-6: Work Completion
- 7-2-7: Transferability
- 7-2-8: Work Standards
- 7-2-9: Permits Issued By Other Jurisdictions
- 7-2-10: Modification Of Facilities
- 7-2-11: Temporary Facilities
- 7-2-12: Restoring Surfaces
- 7-2-13: Evidence Of Comprehensive General Liability Insurance
- 7-2-14: Security Bonding
- 7-2-15: Hold Harmless
- 7-2-16: Work Without Permit
- 7-2-17: Default In Performance
- 7-2-18: Failure To Comply
- 7-2-19: Revocation Or Suspension Of Permit; Stop Work Orders
- 7-2-20: Appeal

#### 7-2-1: DEFINITIONS:

As used in this chapter:

**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 Woodland Hills, a municipality of the state of Utah.

**CITY ENGINEER:** The city engineer, or his 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 DESIGN STANDARDS: The latest version of the construction standards, specifications, design standards or criteria published or adopted by the city council.

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

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 stormwater, 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 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 product 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. It does not include private drain lines.

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

TELECOMMUNICATION 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.

TELECOMMUNICATION 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.

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.

WORK SITE RESTORATION 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. The work site restoration failure may include settlement of surfaces, deterioration of materials or other surface irregularities. The means of determination of a worksite restoration failure shall be further defined in the engineering regulations. (Ord. 2005-06, 5-11-2005)

#### 7-2-2: PERMIT REQUIRED; CONSIDERATIONS:

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. (Ord. 2005-06, 5-11-2005)

#### 7-2-3: APPLICATION FOR PERMIT:

A. Filing: Application for a permit shall be filed with the city engineer on a form or forms to be furnished by the city. A property owner or tenant for whom work is being done shall be responsible for obtaining the permit, 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 a permit 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. Telecommunication 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; and

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 signboards or other structures.

C. Denial For Past Performance: 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 section.

D. Plans And Specifications: 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. Work Without Permit Prohibited: 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 otherwise provided in this section.

F. Appeal Of 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 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 its decision within thirty (30) days following notice of such appeal.

G. Limited Authority Of City Engineer: 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 section, 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.

H. Exception For Routine Maintenance Work: Nothing in this section shall be deemed to require a city, county, state, federal or other government employee to obtain a permit before performing routine maintenance work not involving excavation.

I. 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 specifications is required. (Ord. 2005-06, 5-11-2005)

#### 7-2-4: EMERGENCY CIRCUMSTANCES:

A. Work Permitted: 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:

1. During Business Hours: 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 ( $1/2$ ) 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 engineering regulations, the manual on uniform traffic control devices and other applicable laws, regulations or generally recognized practices in the industry.

2. Other Than Business Hours: 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. (Ord. 2005-06, 5-11-2005)

#### 7-2-5: FEES FOR PERMIT:

A. Payment Required: 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 fee schedule adopted from time to time by resolution of the city council. Such costs may 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: The city council may waive permit fees or penalties or portion thereof provided for in this section, when it determines that such permit fee or penalty pertains to an encroachment on the public way involving a beautification project which furthers specific goals and

objectives set forth in the city general plan, or other official documents, including decorative streetlighting, building facade lighting, flower and planter boxes, and landscaping.

C. Additional Costs And Expenses: 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. (Ord. 2005-06, 5-11-2005)

#### 7-2-6: WORK COMPLETION:

A. Time Limit For Completion; Considerations: 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 Of Commencement; Extension: 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. 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.

C. Length Of Extension; Winter Fees: The length of the extension 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. (Ord. 2005-06, 5-11-2005)

7-2-7: TRANSFERABILITY:

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. (Ord. 2005-06, 5-11-2005)

7-2-8: WORK STANDARDS:

A. Conformance Required: The work performed in the public way shall conform to the requirements of the engineering regulations, design standards, construction specifications and traffic control regulations.

B. Site 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. Interference Minimized: 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.

D. Barricades: 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, 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.

E. Notification Of Street Closures: The county sheriff's office and fire department shall be notified at least twenty four (24) hours in advance of any planned excavation requiring street closure or traffic detour.

(Ord. 2005-06, 5-11-2005)

7-2-9: PERMITS ISSUED BY OTHER JURISDICTIONS:

A. Applicability: 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. Authority Of City: The city engineer, in his 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. Notwithstanding the foregoing, nothing in this section shall be construed to impose any duty, implied or express, 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. (Ord. 2005-06, 5-11-2005)

7-2-10: MODIFICATION OF FACILITIES:

A. City May Require: 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 fails 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 structure 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: Any directive by the city engineer under this section 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 or city ordinance;
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. Directive Under 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 Easement Exception: Subsection A of this section 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. Penalty For 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, 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.

Suggest inclusion of underlined. Agree?

Response: Yes \_\_ **X** \_\_, No \_\_\_\_, or change as follows:

F. Emergency Work By 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 therefore 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. (Ord. 2005-06, 5-11-2005)

#### 7-2-11: TEMPORARY FACILITIES:

A. Sidewalks: 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.

B. Surfaces: 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. Disturbing Private Property:

1. Any time a permittee disturbs the yard, residence or the real or personal property of a private property owner or the city, the permittee shall ensure that such property is returned, replaced 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 restoration shall be borne 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.

3. The requirements of this subsection 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.

D. Drainage Channels: 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.

E. Applicable To Subcontractors: 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. (Ord. 2005-06, 5-11-2005)

#### 7-2-12: RESTORING SURFACES:

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 city engineer.

B. Restoration By City: 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, firm or corporation making the excavation. Payment for said work shall be received by the city prior to the release of the bond. (Ord. 2005-06, 5-11-2005)

#### 7-2-13: EVIDENCE OF COMPREHENSIVE GENERAL LIABILITY INSURANCE:

A. Requirements: 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 ~~from~~ form commercial general liability coverage. The city attorney may increase or decrease minimum insurance limits, depending on the potential liability of any project.

Suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes ☒ ~~X~~ ☐, No ☐, or change as follows:

2. All policies shall include the city, its employees, officers, officials, agents, volunteers and assigns, as insureds. 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 or policies 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 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. Company Rating: Insurance must 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 And Endorsements: The permittee shall furnish the city with certificates of insurance and original endorsements affecting coverage required by the permit. The certificates and endorsements for 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 Included: 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-Insurance Retentions Require City Approval: 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 Owners Exception: A property owner performing work adjacent to his residence may submit proof of a homeowners insurance policy in lieu of the insurance requirements of this section.

H. Exceptions For Providers; Conditions: A provider may be relieved of the obligation of submitting certificates of insurance under the following circumstances:

1. The provider submits satisfactory evidence in advance that:

- a. It is insured in the amounts set forth in this section 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 section; 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. (Ord. 2005-06, 5-11-2005)

#### 7-2-14: SECURITY BONDING:

A. Required; Amount; Approval: Except as specifically exempted in this section, 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 form approved by the city attorney in the amount of one hundred twenty five percent (125%) of the amount deemed by the city engineer sufficient to guarantee faithful performance of the work authorized by a permit granted pursuant to this section. 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 section. The form of the security and the entity issuing the security shall be subject to the approval of the city attorney.

B. Public Utility Franchises: Public utilities franchised by the city shall not be required to file any security if such requirement is expressly waived by terms of the franchise.

C. Conditions: The security required by this section shall be conditioned as follows:

1. 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. 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. 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. 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 or 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. (Ord. 2005-06, 5-11-2005)

7-2-15: HOLD HARMLESS:

A. 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 subsection.

B. This section shall not 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. The city, its officers, officials, employees, agents, volunteers or assigns thereof shall not 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. (Ord. 2005-06, 5-11-2005)

#### 7-2-16: WORK WITHOUT PERMIT:

A. Stop Order: A stop order may be issued by the city engineer directed to any person or persons doing or causing any work to be done in the public way without a permit.

B. Work Without Permit Fee: Any person found to be doing work in the public way without having obtained a permit, as provided in this section, 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. (Ord. 2005-06, 5-11-2005)

#### 7-2-17: DEFAULT IN PERFORMANCE:

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 that work to be done, the estimated cost thereof, and the period of time deemed by the city engineer reasonably necessary for completion of the work. If the principal or surety, within a reasonable time following such notice, fails to either commence and cause the work to be performed with due diligence, or indemnify the city for the cost of doing the work, as set forth in the notice, the city may perform the work and the city may maintain an action for the cost of the work against the principal, surety and others to recover the entire amount due to the city, including attorney fees. If a cash bond has been posted, the cost of performing the cost of the work may be charged against the bond and suit brought for any balance due. (Ord. 2005-06, 5-11-2005)

7-2-18: FAILURE TO COMPLY:

For failure to conform to the design standards or regulations, the city engineer may take one or more of the following actions:

- A. Suspend or revoke the permit;
- B. Issue a stop work order;
- C. Order removal and replacement of faulty work;
- D. Require an extended warranty period; and
- E. Negotiate a cash settlement to be applied toward future maintenance costs. (Ord. 2005-06, 5-11-2005)

7-2-19: REVOCATION OR SUSPENSION OF PERMIT, STOP WORK ORDERS:

A. Authority; Notice; Conditions: 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 work 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 complete 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 shown on the permit. (Ord. 2005-06, 5-11-2005)

7-2-20: APPEAL:

Any suspension, revocation or stop work order issued by the city

engineer maybe 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 as soon as practicable and render its decision within a reasonable time. (Ord. 2005-06, 5-11-2005)

## CHAPTER 3

### SNOW REMOVAL FROM STREETS

#### SECTION:

- 7-3-1: Snow Removal from Streets
- 7-3-2: Snow Storage on Site
- 7-3-3: Unlawful Parking of Vehicles
- 7-3-4: Place Garbage Cans off of Roadway
- 7-3-5: Improvements Installed at Owner's Risk
- 7-3-6: Penalties

#### 7-3-1: SNOW REMOVAL FROM STREETS

A. In order to facilitate the speedy, effective and safe removal of snow from city streets, it is necessary to adhere to the following sections.

#### 7-3-2: SNOW STORAGE ON SITE

A. It is the property owner's responsibility to store snow which has accumulated on their property on their own property or on the premises of another with the permission of the others. Except as permitted in subsection A.1 it shall be unlawful for any person to deposit, haul, push, blow, or otherwise deposit snow accumulated on private property within any public street, right-of-way, trail or sidewalk.

1. An exception may be granted to residents upon application to the city. Specific safety requirements must be met.

#### 7-3-3: UNLAWFUL PARKING OF VEHICLES

A. It shall be unlawful for the owner or driver of any vehicle to park or cause or allow being parked such vehicle upon a city street at any time which may interfere with snow removal. Any vehicle which interferes with snow removal is declared a nuisance. For purposes of this chapter, "vehicle" shall include, but not necessarily be limited to automobiles, trucks, trailers, mobile homes, travel trailers, boats, motorcycles, buses, snowmobiles, and other objects used or capable of being used for transportation purposes whether for the transport of humans, animals, or freight of any kind.



#### 7-3-4: PLACE GARBAGE CONTAINERS OFF OF ROADWAY

A. It shall be unlawful for garbage containers to be placed upon a city street at any time which may interfere with snow removal.

#### 7-3-5: IMPROVEMENTS INSTALLED AT OWNER'S RISK

A. The city shall have no liability for damage to sprinklers, monuments, lights, plants, trees, shrubs, or other improvements installed in the city's right-of-way.

1. The city will not assume any liability for damage to improvements or landscaping in the public right-of-way.
2. Owners of improvements within the right-of-way are requested to flag the location of improvements, and to the extent it is reasonable to do so, city snow removal efforts will make a best efforts attempt to avoid flagged areas. This shall not be construed as a waiver or abandonment of the right-of-way or an acceptance of liability for damage.

#### 7-3-6: PENALTIES

A. A violation of this chapter shall be punishable as an infraction, in addition to any other penalties which may be imposed, including impoundment, pursuant to the provisions of this chapter.

## **TITLE 8**

### CHAPTER 1

### WATER USE AND SERVICE

For statute authority, see UCA §§ 10-8-14, 10-8-15.

SECTION:

8-1--1: Water Department And Superintendent  
8-1--2: Jurisdiction  
8-1--3: Application For Service  
8-1--4: Fees, Rates And Charges  
8-1--5: Billing And Collection  
8-1--6: Access To Premises  
8-1--7: Connection To System  
8-1--8: Meters  
8-1--9: Restoring Service Without Authority  
8-1-10: Wasting Water  
8-1-11: Prohibited Uses  
8-1-12: Interruption Of Water Service  
8-1-13: Maintenance Responsibility  
8-1-14: Fire Hydrants  
8-1-15: Scarcity Of Water

8-1-1: WATER DEPARTMENT AND SUPERINTENDENT:

A. Water Department Created; Appointments:

1. There is hereby created a water department, which shall consist of a superintendent and such other employees as shall be provided for by the city council from time to time. The superintendent and other employees shall be appointed by the mayor with the advice and consent of the city council.

2. The mayor may appoint a member of the city council as superintendent. A member of the city council who serves as superintendent shall report to the mayor for administrative purposes as provided by section 1-6A-1 and subsection 1-6A-3A of this code.

B. Duties Of Superintendent: The superintendent of the water department shall be responsible for the proper care and efficient operation of the city municipal water system. He shall have charge of the reservoirs, water tanks, water mains, fire hydrants and all equipment and appurtenances of the water system. He shall direct the laying of water mains, the installation of all service lines and the regulation of the supply of water. (Ord. 2005-06, 5-11-2005)

8-1-2: JURISDICTION:

The water system constructed or otherwise acquired by the city to supply residents of the city with culinary water is the property of the city and shall be under the sole and exclusive jurisdiction of the city. The superintendent may, and at the direction of the mayor or city council shall, from time to time direct the making of needed additions, improvements, alterations and repairs to the water system. The city council may by resolution from time to time make such rules and regulations as it deems necessary for operation and control of the water system. (Ord. 2005-06, 5-11-2005)

#### 8-1-3: APPLICATION FOR SERVICE:

A. Required: Any person who desires or is required to secure water service from the water department, when such service is available, shall apply therefore to the city recorder and file an agreement with the city recorder which shall be in the form adopted from time to time by resolution of the city council.

B. Tenant Of Owner: If the application for water service is made by a tenant of the owner of the premises to which water service is to be furnished, the application shall contain an agreement signed by the owner of the premises to the effect that in consideration of granting such application, the owner will pay for all service furnished to the premises in case the tenant or occupant shall fail to pay for the same. (Ord. 2005-06, 5-11-2005)

#### 8-1-4: FEES, RATES AND CHARGES:

A. Authorized: The city council shall, from time to time by resolution, establish such rates and fees as it deems proper for the water service provided by the city.

B. Board Of Equalization: The city council is hereby constituted a board of equalization of water rates and fees, to hear complaints and make corrections of any assessments deemed to be illegal, unequal or unjust; provided, however, all such claims shall first be referred to the ~~claims~~ review board established by title 2, chapter 1 of this code, for review and recommendation.

Suggest omission of ~~strikeout~~ text as such is now the proper name of the board. Agree?

Response: Yes ☒ ~~X~~ ☐, No ☐, or change as follows:

C. Rebates For Indigents: The city council may, if it sees fit, rebate

all or any part of the water bill of any indigent person. (Ord. 2005-06, 5-11-2005)

8-1-5: BILLING AND COLLECTION:

The city treasurer shall mail a written statement to each user of the water system once each month. The statement shall specify the amount of the bill due for water service used and the place of payment and due date. If any person fails to pay the amount billed within thirty (30) days of the due date, the finance director shall notify the superintendent of the water department and shall have authority to direct the superintendent to shut off all water services to the premises. Before water service to said premises shall again be provided, all delinquent water charges much have been paid to the city, together with such reconnection fee as the city council may ~~be~~ by resolution from time to time authorize. The finance director may also request the city attorney to enforce payment of all delinquent water service charges by an action in the name of the city. (Ord. 2005-06, 5-11-2005)

Suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes \_ **X** \_\_\_\_, No \_\_\_\_, or change as follows:

8-1-6: ACCESS TO PREMISES:

The owner and occupant of each premises to which water service is furnished shall allow the superintendent of the water department or his authorized representative free access to the premises at all reasonable times to examine the apparatus, the amount of water used, the manner of use, and to perform such duties as the superintendent may have under this chapter. (Ord. 2005-06, 5-11-2005)

8-1-7: CONNECTION TO SYSTEM:

A. Conditions: The superintendent of the water department shall make or supervise making each connection to the city water system on the following conditions:

1. The fee for a water connection in such amount as may be established from time to time by resolution of the city council has been paid and all applicable ordinances, rules and regulations are complied with;
2. The city will furnish labor and materials to connect to the water

main and run the service pipe to and including the water meter box, but the person for whom the connection is made shall pay all costs thereof; and

3. The person for whom the connection is made shall furnish all labor and materials for the service pipe beyond the meter box.

B. Materials, Quality: All service pipes connected to the city water system shall be of such material, quality and specifications as the superintendent may require.

C. Extensions Require Permit: It shall be unlawful for any person to make any extension of any pipe or connect any fixture to the city water system for any purpose whatsoever without: 1) obtaining a building permit under the building and plumbing codes adopted by the city; or 2) if no permit is required by the building or plumbing code, obtaining a plumbing permit from the superintendent. Violation of this subsection is an infraction, subject to penalty as provided in section 1-4-1 of this code. (Ord. 2005-06, 5-11-2005)

Suggest inclusion of underlined. Agree?

Response: Yes ☒ No ☐, or change as follows:

#### 8-1-8: METERS:

A. Required: Each lot or premises using water from the city water system shall have a water meter or meters connected to the system as necessary to adequately measure the water used by the lot or premises.

B. Installation; Readings: Meters shall be installed in easily accessible locations selected by the superintendent of the water department. Meters will be furnished by the city at the expense of the water user, at rates established from time to time by resolution of the city council. Meter readings shall be made from time to time at such intervals as determined by the superintendent and shall be submitted to the finance director for the purpose of making necessary billings for water service.

C. Modifications, Connections Prohibited: Modifications or connections to piping inside the meter box are prohibited. Sprinkler system connections inside the meter box or at any point upstream of the meter box are prohibited. All such connections or modifications shall be removed at the expense of the water user.

D. Tampering With Meter: It shall be unlawful for any person to tamper with, modify, or deface in any manner a water meter or meter box. Violation of this subsection is a class C misdemeanor, subject to penalty as provided in section 1-4-1 of this code. (Ord. 2005-06, 5-11-2005)

Suggest inclusion of underlined. Agree?

Response: Yes \_\_ **X** \_\_, No \_\_\_\_, or change as follows:

8-1-9: RESTORING SERVICE WITHOUT AUTHORITY:

It shall be unlawful for any person, after water service has been shut off for failure to pay service fees or other violations of the rules, regulations or ordinances pertaining to the water system, to turn on or allow the water to be turned on and used without authorization from the superintendent of the water department. Violation of this section is a class B misdemeanor, subject to penalty as provided in section 1-4-1 of this code. (Ord. 2005-06, 5-11-2005)

Suggest inclusion of underlined. Agree?

Response: Yes \_\_ **X** \_\_, No \_\_\_\_, or change as follows:

8-1-10: WASTING WATER:

A. Prohibited: It shall be unlawful for any water user to waste water or to allow it to be wasted by imperfect stops, valves, leaky joints or pipes, or to allow tanks or troughs to leak or overflow, or to wastefully run water from hydrants, faucets or stops or through basins or water closets, urinals, sinks or other apparatus, or to use the water for purpose other than those for which the water user has paid or to use water in violation of the rules and regulations for controlling the water supply and other provisions of this chapter. Violation of this section is an infraction, subject to penalty as provided in section 1-4-1 of this code. (Ord. 2005-06, 5-11-2005)

Suggest inclusion of underlined. Agree?

Response: Yes \_\_ **X** \_\_, No \_\_\_\_, or change as follows:

B. Termination Of Service:

1. If the superintendent determines that a water user engages in practices which result in the needless waste of water and continues to do so after reasonable notice has been given to the user, the superintendent may refer the matter to the city council.
2. The city council may consider terminating the water service of the user. If it determines to consider such termination, the city council shall give notice to the water user of the intention to terminate water service. Such notice shall be given in writing at least five (5) days before the meeting of the city council at which the termination will be considered. The notice shall inform the water user of the time and place of the meeting and of the waste of water.
3. The water user may appear with or without counsel and present reasons why water service should not be discontinued.
4. After hearing from the water user and such other persons as it deems appropriate, the city council may determine to terminate water service and instruct the superintendent accordingly. Termination shall be for such period as the city council may determine. (Ord. 2005-06, 5-11-2005)

8-1-11: PROHIBITED USES:

Water supplied through the city water system shall not be used for the purpose of driving any motor, siphon, turbine or other wheel, or hydraulic engine or elevator, or for driving or propelling machinery of any kind whatsoever. Provided, however, this section shall not prohibit the use of ornamental water wheels or similar devices, so long as the water is recycled and not provided continuously from the city water system. (Ord. 2005-06, 5-11-2005)

8-1-12: INTERRUPTION OF WATER SERVICE:

A. Authority Of City: The city may at any time, without notice, shut off water from its mains for purpose of making repairs or extensions or for other purposes.

B. Nonliability For Damages: The city shall not be liable for any damage to a water user by reason of stoppage or interruption of service caused by fire, scarcity of water, accidents to the water system or its mains, or other unavoidable cause, or as the result of maintenance or construction operations. (Ord. 2005-06, 5-11-2005)

8-1-13: MAINTENANCE RESPONSIBILITY:

The duties of the city and water users to maintain water mains and service connections shall be as follows:

A. All water mains and the service connections there from upstream of the meter box shall be maintained by the water department.

B. All service connections and piping downstream of the meter box shall be kept in good repair, protected from frost and free from leaks by the water user.

C. The meter box, meter and piping within the meter box shall be maintained by the water department, except that the water user shall protect the meter and piping in the box from frost and shall pay for repair or replacement caused by freezing. (Ord. 2005-06, 5-11-2005)

8-1-14: FIRE HYDRANTS:

A. All public fire hydrants shall be under the control of and shall be kept in repair by the water department, and in case of fire, the fire department shall have free access to such hydrants.

B. It shall be unlawful for any person to open or operate any fire hydrant, or attempt to draw water there from, except when specifically authorized to do so by the superintendent or fire chief, or to obstruct access to any fire hydrant. Violation of this subsection is a class C misdemeanor, subject to penalty as provided in section 1-4-1 of this code. (Ord. 2005-06, 5-11-2005)

Suggest inclusion of underlined. Agree?

Response: Yes \_ **X** \_\_\_\_, No \_\_\_\_, or change as follows:

8-1-15: SCARCITY OF WATER:

In time of scarcity of water, whenever it shall in the judgment of the mayor and city council be necessary, the mayor may, by proclamation,



limit the use of water to such extent as may be necessary for the public good. It shall be unlawful for any person to violate any proclamation made by the mayor pursuant to this section. Violation of this section is an infraction, subject to penalty as provided in section 1-4-1 of this code. (Ord. 2005-06, 5-11-2005)

Suggest inclusion of underlined. Agree?

Response: Yes \_ **X** \_\_\_\_, No \_\_\_\_, or change as follows:

## CHAPTER 2

### BACKFLOW AND CROSS CONNECTIONS

#### SECTION:

- 8-2-1: Purpose
- 8-2-2: Definitions
- 8-2-3: Protection And Maintenance Of System
- 8-2-4: Compliance Required; Disconnection Of Service
- 8-2-5: Surveys And Inspections

#### 8-2-1: PURPOSE:

The purpose of this chapter is to:

- A. Protect the culinary water supply of the city from possible contamination or pollution by requiring compliance with state and local plumbing codes, health regulations, occupational safety and health acts, and other applicable industry standards for water system safety within the internal distribution system and private water system of each water user;
- B. Promote elimination or control of cross connections in the plumbing fixtures and piping systems of water users, as required by state and local plumbing codes, health regulations, occupational safety and health acts, and other applicable industry standards to assure water system safety; and
- C. Provide for administration of a continuing backflow prevention program to prevent the contamination or pollution of the city water system. (Ord. 2005-06, 5-11-2005)

## 8-2-2: DEFINITIONS:

The following definitions shall apply to this chapter:

**APPROVED BACKFLOW PREVENTION ASSEMBLY:** A device or means designed to prevent backflow. Specifications for backflow prevention assemblies shall be those included in the Utah plumbing code and cross connection control program which has been adopted by the state.

**BACK PRESSURE:** Refers to the situation or potential situation where the source of contamination is or can be at a higher pressure than the city water system. Back pressure may cause the backflow of water or other liquids, mixtures or substances under pressure into the feeding distribution pipes of the water supply system from any source other than the intended source.

**BACK SIPHONAGE:** The situation where backflow may be caused by a lowering of the city water system pressure resulting in the flow of water, or other liquids, mixtures or substances into the distribution pipes of the water supply system for any source other than the intended source, caused by reduction of pressure in the water supply system.

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

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

**CROSS CONNECTION:** A physical connection or arrangement of piping or fixtures which may allow nonpotable water or industrial fluid or other material of nonpotable quality to come in contact with potable water inside a distribution system. This shall include any temporary connection such as swing connections, removable connections, four-way plug valves, spools, dummy sections of pipe, swivel or change over devices or sliding multiport tubes or other plumbing arrangements.

**STATE:** The Utah department of health, bureau of drinking water, except as otherwise indicated by the context. (Ord. 2005-06, 5-11-2005)

## 8-2-3: PROTECTION AND MAINTENANCE OF SYSTEM:

**A. City Responsibility:** The superintendent of the water department shall be responsible to take reasonable measures for protection of the water system from foreseeable conditions leading to possible contamination or pollution of the water system due to backflow of

contaminants or pollutants into the water system. In carrying out that responsibility, the superintendent shall cause culinary water system surveys and inspections of water users' distribution systems to be conducted. Records of such surveys and inspections shall indicate compliance with the health and safety standards listed in section 8-2-1 of this chapter. All such records shall be maintained by the water department. Based upon the result of such surveys and inspections, the superintendent shall select and approve a backflow prevention assembly for the service connection of any water user as deemed appropriate by the superintendent.

Suggest inclusion of underlined. Agree?

Response: Yes \_\_ **X** \_\_, No \_\_\_\_, or change as follows:

B. User Responsibility: It shall be the responsibility of a water user to purchase, install, test and maintain any backflow prevention assembly required to comply with this section.

C. Building Inspector; Certified Technician: The building inspector charged with enforcement of the plumbing code adopted by the city will review all plans to ensure that unprotected cross connections are not part of the water user's system. If a cross connection cannot be eliminated, it shall be protected by installation of an air gap or an approved backflow prevention assembly. All repairs, tests or maintenance of backflow prevention assemblies, whether done by a water user or the water department, shall be performed by a certified technician. The technician shall:

1. Ensure that acceptable testing equipment and procedures are used for testing, repairing or overhauling ~~backflow~~ backflow prevention assemblies;

Suggest omission of ~~strikeout~~ text and inclusion of underlined. Agree?

Response: Yes \_\_ **X** \_\_, No \_\_\_\_, or change as follows:

2. Make reports of such testing, repair or overhauling to the water user and water department. The report shall include a list of materials or replacement parts used;

3. Use replacement parts equal in quality to parts originally supplied

by the manufacturer of the backflow prevention assembly;

4. Not change the design, material or operational characteristics of a backflow prevention assembly;

5. Use testing equipment in proper operating condition and acceptable to the superintendent;

6. Be equipped with, and be competent to use, all necessary tools, gauges and other equipment necessary to properly test and maintain backflow prevention assemblies;

7. Attach to each backflow prevention assembly tested or repaired, a tag showing the serial number, date tested, name of technician and technician's license number. (Ord. 2005-06, 5-11-2005)

#### 8-2-4: COMPLIANCE REQUIRED; DISCONNECTION OF SERVICE:

No water service connection to any premises from the city water system shall be made or maintained except in compliance with this chapter and all other applicable state laws, regulations and codes. If the superintendent finds that a backflow prevention assembly required by this chapter is not installed, tested or maintained, or that a backflow prevention assembly has been removed or bypassed, or an unprotected cross connection exists on the premises, or the periodic system survey of an water user's system has not been conducted, he shall give written notice of such violation to the water user. If the violation is not corrected within ten (10) days after the date of such written notice, water service of that user shall be disconnected and shall not be restored until the violation is corrected. (Ord. 2005-06, 5-11-2005)

#### 8-2-5: SURVEYS AND INSPECTIONS:

The water user at any premises where a backflow prevention assembly is installed shall have surveys and inspections and operational tests made by a certified technician at such intervals as the superintendent shall require. The superintendent shall see that all such tests are made according to state standards. Each backflow prevention assembly shall be tested within ten (10) working days after installation. No backflow prevention assembly shall be installed so as to create a safety hazard. (Ord. 2005-06, 5-11-2005)

### CHAPTER 3

#### DRINKING WATER SOURCE PROTECTION

For statute authority, see UCA § 10-8-15, 19-4-101 et seq.

SECTION:

- 8-3-1: Title
- 8-3-2: Purpose
- 8-3-3: Definitions
- 8-3-4: Protection Zones
- 8-3-5: Permitted Land Uses
- 8-3-6: Prohibited Land Uses
- 8-3-7: Enforcement And Penalty

8-3-1: TITLE:

This chapter shall be known as the *WOODLAND HILLS DRINKING WATER SOURCE PROTECTION ORDINANCE*. (Ord. 2005-06, 5-11-2005)

8-3-2: PURPOSE:

The purpose of this chapter is to ensure the provision of a safe and sanitary drinking water supply for the city by establishing drinking water source protection zones surrounding the wellheads and collection areas for all sources for the city water system and by the designation and regulation of property uses and conditions which may be maintained within such zones. (Ord. 2005-06, 5-11-2005)

8-3-3: DEFINITIONS:

The following definitions shall apply to this chapter:

ANIMAL FEEDING OPERATION: A lot or facility where the following conditions occur:

- A. Animals have been or will be stabled or confined and fed or maintained for a total of forty five (45) days or more in any twenty three (23) month period;
- B. Crops, vegetation, forage growth or postharvest residues are not sustained in the normal growing season over any portion of the lot or facility.
- C. Two (2) or more animal feeding operations under common ownership are

considered to be a single feeding operation if they adjoin each other, if they use a common area, or if they use a common system for the disposal of wastes.

- ANIMAL UNITS: A. The number of slaughter or feeder cattle; plus
- B. The number of mature dairy cattle multiplied by 1.4; plus
- C. The number of swine ~~over~~ weighing over fifty five (55) pounds multiplied by 0.4; plus

Suggest omission of strikeout text. Agree?

Response: Yes \_\_ **X** \_\_, No \_\_\_\_, or change as follows:

- D. The number of sheep multiplied by 0.1; plus
- E. The number of horses multiplied by 2.0.

CONTAMINATION CONTROL MEASURE: A device or administrative control which is implemented to prevent discharges to the groundwater. Spill protection is an example of a contamination control measure. Contamination control measures shall be compliant with the applicable design standards.

EXTREMELY HAZARDOUS SUBSTANCE: Any substance identified in section 302 (EHS) column of the "Title III List Of Lists-Consolidated List Of Chemicals Subject To Reporting Under SARA Title III" (EPA 560/4-91-011).

LAND MANAGEMENT STRATEGIES: Zoning and nonzoning controls which include, but are not limited to, the following: zoning and subdivision ordinances, site plan reviews, design and operating standards, source prohibitions, purchase of property and development rights, public education programs, groundwater monitoring, household hazardous waste collection programs, water conservation programs, memoranda of understanding, written contracts and agreements.

POLLUTION SOURCE: A source of discharges of contaminants to groundwater or potential discharges of the liquid forms of extremely hazardous substances which are stored in containers in excess of applicable threshold planning quantities, as defined in SARA title III. Examples of possible pollution sources include, but are not limited to, the following: storage facilities that store the liquid forms of extremely hazardous substances, septic tanks, drain fields, class V underground injection wells, landfills, open dumps, landfilling of sludge and

septage, manure piles, salt piles, pit privies and animal feeding operations with more than ten (10) animal units.

POTENTIAL CONTAMINATION SOURCE: Any facility or site which employs an activity or procedure which may potentially contaminate groundwater. A pollution source is also a potential contamination source.

REGULATORY AGENCY: Any governmental agency with jurisdiction over hazardous waste.

SANITARY LANDFILL: A disposal site where solid wastes, including putrescible wastes or hazardous wastes, are disposed of on land by placing earth cover thereon.

SEPTIC TANK AND DRAIN FIELD SYSTEM: A system which is comprised of a septic tank and a drain field which accepts domestic wastewater from buildings or facilities for subsurface treatment and disposal. By their design, septic tank and drain field discharges cannot be controlled with control devices or control measures.

WELLHEAD: The upper terminal of a well, including adapters, ports, seals, valves and other attachments. (Ord. 2005-06, 5-11-2005) !DEFEND!

#### 8-3-4: PROTECTION ZONES:

There are hereby established drinking water source protection zones to be known as zones one, two, three and four of the drinking water protection area, identified and described as follows:

A. Zone one is the area within a one hundred foot (100') radius of the wellhead.

B. Zone two is the area within a two hundred fifty (250) day groundwater time of travel to the wellhead, the boundary of the aquifer or aquifers which supplies water to the groundwater source, or the groundwater divide, whichever is closer.

C. Zone three is the area within a three (3) year groundwater time of travel to the wellhead, the boundary of the aquifer or aquifers which supplies water to the groundwater source, or the groundwater divide, whichever is closer.

D. Zone four is the area within a fifteen (15) year groundwater time of travel to the wellhead, the boundary of the aquifer or aquifers which supplies water to the groundwater source, or the ground water divide, whichever is closer. (Ord. 2005-06, 5-11-2005)

#### 8-3-5: PERMITTED LAND USES:

The following land uses shall be permitted within drinking water source protection zones:

A. Any land use permitted within existing agricultural, single-family residential, multi-family residential and commercial districts, so long as the land use conform to the rules and regulations of the regulatory agency with jurisdiction over hazardous waste.

B. Any other open land use where any building located on the property is incidental and accessory to the primary open land use. (Ord. 2005-06, 5-11-2005)

#### 8-3-6: PROHIBITED LAND USES:

The following land uses or conditions are prohibited within drinking water source protection zones, even if such use or condition may otherwise be ordinarily included as part of permitted land use under section 8-3-5 of this chapter: (Ord. 2005-06, 5-11-2005)

A. Zone one: The location of any uncontrolled potential pollution contamination sources. (Ord. 2013-06, 10-22-2013)

B. Zone two: The location of a pollution source unless its contaminated discharges can be controlled with controls compliant with design standards.

C. Zone three and zone four: The location of a potential contamination source unless it can be controlled through land management strategies. (Ord. 2005-06, 5-11-2005)

#### 8-3-7: ENFORCEMENT AND PENALTY:

The enforcement and penalties for violations of the policies and procedures for administration of the drinking water source protection zones established by this chapter, including, without limitation, those applicable to nonconforming uses, shall be the same as provided in the existing zoning ordinance of the city, as the same is now adopted and from time to time amended. (Ord. 2005-06, 5-11-2005)



## CHAPTER 4

### WATER CONSERVATION PLAN

#### SECTION:

#### 8-4-1: Water Conservation Plan Adopted

#### 8-4-1: WATER CONSERVATION PLAN ADOPTED:

The city has adopted a water conservation plan, which is on file in the city office. (Ord. 2014-01, 5-13-2014; amd. 2015 Code)

If the city desires the language in this section to differ from what we have provided, please specify.

Response: Leave as is \_ **X** \_\_\_\_\_ , or change as follows:

#### Chapter 5

#### WATER REQUIREMENTS AND POLICIES

#### SECTION:

#### 8-5-1: Water Requirements and Policies:

1. TYPE OF WATER THAT IS ACCEPTABLE TO THE CITY: The allocation of water in Utah County is controlled by the State Division of Water Rights. Presently all water in Utah County is allocated in wells, irrigation and canal companies, stock watering companies, and other cities for their municipal uses. Since there is no water that is not already allocated in Utah County, those providing a water right to Woodland Hills city must get the water from a source that has already been allocated. This is done by means for transferring a water right from one source (mentioned above) to the city's municipal use into one of its wells. This process is controlled by the State Division of Water Rights (DWR) through a change application form. The city currently requires .90 acre feet of water for each residential lot that is being developed in the city. This amount of water may change in time and a larger amount may be required for a business or other entity that may use larger amounts of water.
2. CHANGE APPLICATION TO STATE DIVISION OF WATER RIGHTS (DWR): To transfer water to the city it is the responsibility of the individual or company owning the water right to initiate the change application with the DWR, with the approval of the city, who will become the new owner of the water right. There is a review process which takes place by the DWR and an opportunity for other water right holders to protest the change if they feel their water right will be adversely effected by the change in the place of diversion, i.e. moving the source of diversion from a well or irrigation/canal company to the

Woodland Hills city water system. After the protest period is over and the DWR review completed, the DWR will issue a decision memorandum which will either allow the change in the place of diversion or disallow the change. This change must be allowed by the DWR in order for the city to accept the water right into its municipal water system.

Further, there are some irrigation and canal companies that will not transfer their stock or certificates of shares for their irrigation company to the city. Their purpose in doing this is to keep the water right in their system. However, they will allow the city to be the holder of this water right and have the understanding that the water in the water right can no longer be used by them in their irrigation system, but is being transferred to a municipal use for the city of Woodland Hills. This is acceptable to the city as long as the new right is in the name of the city of Woodland Hills. In most of these cases the irrigation company will charge a yearly carrying charge for the water right. This carrying charge will be calculated by the city who may require this fee to be paid by the water right contributor up front to cover perpetual charges.

All costs associated with the filing or review process which are assessed by the DWR are to be paid by the individual or company transferring the water right to the city.

3. DEEDING OF THE WATER RIGHT TO THE CITY: Following DWR's approval of the change application the water right owner must deed the water right to the city, either by warranty deed or a quit claim deed showing the city as the new owner of the water right. This deed must be recorded with the Utah County Recorder's office and delivered to the city recorder as evidence of the water right transfer. Evidence of completion of these procedures and copies of all related documents must be delivered to the city recorder at the time of a Final Plat Submission for recording purposes. See section below.
4. WATER RIGHTS BEING TRANSFERRED TO THE CITY MUST MEET THE FOLLOWING REQUIREMENTS:
  - a. Before any attempt to transfer a water right to the city, the city must review any and all documentation related to the intended transfer and approve of its willingness to accept the water right being proposed for transfer.
  - b. The transferor of the water right has full responsibility to insure completeness of any application made to the DWR to transfer the water right to the city.
  - c. The city reserves the right to have a title search done on the water right, at the transferor's expense, to ensure the transferor has legal title to the water right being transferred.

- d. The city reserves the right to reject any proposed water right being transferred if it is not sufficient in amount, the owner of the water right is in question, or the water right is otherwise considered unsuitable for use by the city.

5. TIME OF CONVEYANCE OF THE WATER RIGHT TO THE CITY:

- a. Preliminary Plat Review- If the water right conveyance pertains to a new subdivision or additions or lots being added to an existing subdivision, the sub-divider must provide some evidence as to where the water right is coming from, such as a commitment letter from the owner stating that the water right owner is willing to sell the water right, if it is not already in the possession of the sub-divider. This documentation must be provided to the city recorder for the planning commission and city council reviews of the Preliminary Plat application.
- b. Final Plat for Recording- At the time of Final Plat Review for recording, any change applications reviewed and approved by DWR for the conveyance of the water right to the city must be completed and submitted with the final plat to the city recorder for review and approval by the planning commission and city council, along with a recorded deed showing conveyance of the water right to the city. Under no circumstances will a building permit be issued for any construction of a dwelling or building without proof from DWR that the city can use the respective water right and it can be conveyed to the city and a recorded deed has been executed to show ownership of the water right in the city's name.

6. CONVEYANCE OF TITLE TO A WATER RIGHT: Once a water right has been deeded to the city it becomes the property of the city and used at the city's sole discretion. If lots are later combined within a subdivision, the water right pertaining to one of the combined lots continues to belong to the city and will not be deeded back to any developer or lot owner.

7. "BANKING" OF WATER RIGHTS: With the city council's approval water rights can be "banked" by the city for future use in a development, subdivision, etc. The water right must have gone through the processes outlined in Section 2 above and a Water Banking Agreement executed between the conveyor and the city, which is acceptable to the city. Any fees associated with this must be paid by the conveyor of the water right. If the development or subdivision does not materialize or it is otherwise determined that the water right is not needed by the conveyor, the water right will be returned to the conveyor. The water right conveyor can remove these water rights

from the "bank" at their own discretion but are required to pay any fees that might be associated with the title transfer.  
The city shall be granted full use of the banked water at the time of the execution of the Water Banking Agreement.

## Chapter 6

### IRRIGATION WATERING

#### SECTION:

- 8-6-1: Pressurized Irrigation Water System
- 8-6-2: Rates and Fees
- 8-6-3: Billing-Delinquent-Discontinuance of Service
- 8-6-4: Unauthorized Use
- 8-6-5: Service Pipes-Maintenance
- 8-6-6: Connection and Meter Required
- 8-6-7: Waste Prohibited
- 8-6-8: Excessive Use
- 8-6-9: Limitations of Use
- 8-6-10: City Not Liable For Damages
- 8-6-11: Violation-Penalty

#### 8-6-1: PRESSURIZED IRRIGATION WATER SYSTEM

A. The City shall provide pressurized irrigation water service to its residents and businesses in those parts of the city where this service is available. This water is not treated and is not to be used for any culinary purpose but is for outdoor watering use only. The City Council may enact policies necessary for the management and control of the system.

B. The city may require developers or home builders in the areas that will be serviced by the pressurized irrigation water system to construct, at the time of building and landscaping the lot, a secondary water delivery system on the property. This delivery system must be constructed in such a way as to easily convert it from culinary outside watering to irrigation outside watering and designed so that there is no possibility of outside irrigation water coming in contact with any culinary water following the systems conversion from using outside culinary water to outside irrigation water.

#### 8-6-2: RATES AND FEES

A. The City Council shall establish rates and fees for use of the pressurized irrigation system. Impact fees may be established only after following the requirements of state law to establish impact fees. The connection fees and usage rates may be set by resolution of the City

Council or may be set as part of the City's annual budget approval process.

#### 8-6-3: BILLING-DELINQUENT-DISCONTINUANCE OF SERVICE

A. The City Recorder shall furnish to each user, via mail, email or other notification procedure a written statement showing the amount of pressurized irrigation water service assessed against him or her, once each month, or such other regular interval as the City Council shall direct.

B. Said statement shall separately specify the amount of the bill for the pressurized irrigation water used 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 Recorder shall have the authority to direct that all pressurized irrigation water service to the premises involved be discontinued.

C. Before said pressurized irrigation water service to said premises shall again be provided, all delinquent pressurized irrigation water charges must have been paid to the City Treasurer, together with such extra charge for turning the water on and off and late fees as the City Council may have established by resolution.

#### 8-6-4: UNAUTHORIZED USE

A. It is unlawful for any person, after the pressurized irrigation water has been turned off from his or her premises for nonpayment of these charges or other violation of the rules and regulations pertaining to the pressurized irrigation water supply, to turn on or allow the water to be turned on or used without authority.

B. It shall be unlawful for any person, whether by himself, family, servants, or agents, to utilize the municipal pressurized irrigation water system without paying therefore, as herein provided or, without authority, to open any stopcock, valve, or other fixtures attached to the system of pressurized irrigation water supply unless it is done pursuant to proper applications, agreement or resolution. It shall be unlawful to injure, deface, or impair any part or appurtenance of the pressurized irrigation water system.

C. It is unlawful for any person to use or obtain pressurized irrigation water services from the premises of another without the expressed permission of the other and approval of the city Public Works Department.

#### 8-6-5: SERVICE PIPES-MAINTENANCE

A. All water pipes from the city main turn out of the pressurized irrigation water system to the property line of the lot applying to or using the water, shall be maintained by the City. Pipes beyond the property line valve are service pipes and the responsibility of the customer.

B. All users of pressurized irrigation water service shall keep their service pipes and connections and other apparatus in good repair and protected from frost at their own expense. No cross-connections with the culinary water system shall be allowed. No person, except under the direction of the Public Works Department, shall be allowed to dig into the street for the purpose of laying, removing or repairing any service pipe.

C. All service and other pipes used in conjunction with the pressurized irrigation water services of the City shall be of such material, quality, and specifications as the City Code may require, and shall be installed in accordance with the Construction and Development Standards of the City.

D. Any person cross connecting the pressurized irrigation water service with the culinary water service shall be guilty of a Class B Misdemeanor. In addition to any criminal penalty, such person shall also be subject to termination of all water service (culinary and pressurized irrigation) from the City and shall be responsible for the costs of disinfecting the City's culinary water system, together with all other costs incurred by the City as a result of the cross connection.

#### 8-6-6: CONNECTION AND METER REQUIRED

A. All outdoor water users in the City, who have access to the pressurized irrigation water system, shall be required to connect to the system, and pay the required fees. All such irrigation water must go through a metering system, which meter must be paid for, installed and maintained by the user at the property line valve. The City may waive this requirement for any lot that has a private well which can be used for outdoor watering. Any such lot which seeks to connect to the system at a future date must pay applicable impact and connection fees in place at the time of application, and prior to connection to the system.

#### 8-6-7: WASTE PROHIBITED

A. No water user may waste water or allow it to be wasted by imperfect stops, taps, valves, leaky joints or pipes, or to allow tanks or watering troughs to leak or overflow, or to wastefully run water from hydrants,

taps, hoses, stops, or other apparatus, or to use the water for purposes other than those which he or she has paid, or to use the water in violation of the rules and regulations for controlling the pressurized irrigation water supply, including any restrictions imposed under §11-9-9. The City can establish hours of use for the pressurized irrigation water as well as restrict use during certain times of the days, as determined by the Director, Public Works Department. Exceptions can be granted for new lawns, short cycles for testing, inspection, or maintenance. If, in the judgment of the Director, Public Works Department or their designee, any user of the city pressurized irrigation water service engages in practices which result in the needless waste of water or are in violation of any of the provisions of this Chapter, they are subject to the penalties of paragraph B.

B. Any user violating any of the measures of this Chapter to help prevent waste shall be subject to the following civil penalties, which are in addition to any criminal penalties which may be applicable.

1. A written notice shall be sent for the first violation. Notice is deemed sufficient if left with a resident over age fourteen or with a home/business occupant of the premises, or if left on the front door of the premises.
2. A second violation by a residential user within the same calendar year shall subject the user to a \$100.00 penalty and the valve shall be turned off and tagged. The valve may not be turned back on until the fee is paid. Notice of the penalty shall be provided as outlined in subsection (1) and added to the City Utility Bill for the premises.
3. A third violation within the same calendar year shall subject the user to a \$750.00 penalty and the pressure irrigation service shall be metered and a metered rate paid for the water used. Once a meter is installed, at the expense of the customer, it will remain with the property and the owners/users causing its installation shall pay a metered rate each year thereafter. If the owner/user moves, the pressure irrigation rate will revert back to the pre-violation rate. Notice of the penalty shall be provided as outlined in subsection (1) and added to the City Utility Bill for the premises. The person(s) violating must appear before the City Council and obtain their approval to have water restored.
4. A fourth violation will also result in the termination of the service for the remainder of the year.
5. The pressurized irrigation system can only be used on lawns and



gardens, for fire suppression when necessary, and other outside watering as approved by the City Public Works Director. The pressure irrigation system can only be used on the legal parcel where the pressure irrigation lateral is installed. Use on any other parcel, whether owned by the same person(s)/entity or another person(s)/entity, is strictly prohibited, unless prior written approval by the City is granted allowed by contract between the user and the City. Lawns and gardens do not include pastures, orchards, neighborhood gardens, commercial garden, farm crops, or other large uses of similar type. A contract or written approval by the City may include the requirement to purchase and install a meter and paying a large lot metered rate.

C. Any user desiring to contest any violation or penalty as set forth in sub-paragraph B shall have the right to request a hearing. The hearing shall be held before the City Recorder and the Director of the Public Works Department. A request for hearing shall be made within ten (10) days of the date that the notice is delivered. The hearing shall be scheduled within twenty (20) days of receipt of the request for hearing. The hearing officers shall follow these guidelines:

1. The penalty provisions shall be closely followed. The hearing officers may not reduce the financial amount of any penalty but may allow it to be paid over a period of time not to exceed five months.
2. The hearing officers may waive the penalty if it is determined that the offense occurred through no fault of the user and that means to prevent wasting water were taken by the user within 15 days of their knowledge of a wasteful event and/or practice. A member of the user's family, employee, a contractor or sub-contractor are all considered to be agents of the user and their conduct is to be considered as fault of the user. Economic hardship shall not be a basis to waive any penalty.

D. The user may appeal the decision of the hearing officers to the City Council. The decision of the hearing officers must be unanimous either for or against. If it is not, it will automatically go before the city council for a decision. A request for hearing shall be made within 10 days of the decision. The hearing shall be held within thirty (30) days after request for a hearing is made. The decision of the Council is final and non-appealable.

E. Any penalty added to the City Utility Bill shall be treated as part of the bill, and if not timely paid, is subject to late fees, penalties, and/or shutoff of utility service in accordance with utility rules in place at the time.

#### 8-6-8: EXCESSIVE USE

A. It shall be unlawful for any person to use such number of outlets simultaneously or to use such sprinklers or combinations of sprinklers or outlets as will, in the opinion of the Director, Public Works Department, materially affect the pressure or supply of pressurized irrigation water in the municipal pressurized irrigation water system or any part thereof.

B. The Public Works Director shall, after determining that such improper use exists, notify the affected pressurized irrigation 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 part.

#### 8-6-9: LIMITATIONS OF USE

A. In times 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 pressurized irrigation water to such extent as may be necessary for the public good.

#### 8-6-10: CITY NOT LIABLE FOR DAMAGES

A. The City shall not be liable for any damage to a water service user by reason of stoppage or interruption of his or her pressurized irrigation water supply caused by 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 Utah Governmental Immunity Act.

#### 8-6-11: VIOLATION-PENALTY

A. Unless otherwise specifically provided, every person who violates any provision of this chapter is guilty of a Class C Misdemeanor.

### **TITLE 9**

#### CHAPTER 1

#### BUILDING CODES AND REGULATIONS

**For statute authority, see UCA § 10-3-711, title 15A.**

SECTION:

- 9-1-1: Building Code And Regulations
- 9-1-2: Plumbing Code
- 9-1-3: Mechanical Code
- 9-1-4: Electrical Code
- 9-1-5: Fuel Gas Code
- 9-1-6: Energy Code

9-1-1: BUILDING CODE AND REGULATIONS:

A. Building Code Adopted: The nationally recognized building code, as adopted by the Utah uniform building code commission and Utah division of occupational and professional licensing, as it may be amended from time to time, is hereby adopted as the city building code, subject only to those ~~exemptions~~ amendments as may be provided by state law as set forth in Utah Code Annotated ~~section 58-56-1 et seq.~~ title 15A, chapters 3 and 4. The same is adopted as if fully set forth herein. The city recorder shall maintain at least one copy of said building code in his/her office for use and inspection by the public as required by state law.

Suggest omission of strikeout text and inclusion of underlined. The statute does not appear to provide for exemptions, just amendments, and the statute referenced is outdated. Agree?

Response: Yes \_ **X** \_\_\_\_, No \_\_\_\_, or change as follows:

B. Building Permits:

1. Conformance Required For Issuance: The building official may issue a building permit upon application and when the building plan and site plan conforms to all applicable laws, ordinances, rules and regulations.

2. Partial Building Permit: The building official may issue a partial building permit upon application. A partial building permit shall allow limited commencement of construction while the complete plans and specifications are under review. Issuance of a partial building permit is not a commitment by the city or the building official to issue a building permit. An applicant proceeding with construction under a partial building permit does so at the applicant's own risk.

**3. Water Rights Transferred: A building permit shall not be issued until water rights required by ordinance have been transferred to the city.**

The city provides in subsections 11-3-4B1f and 11-4-1E and section 11-6-1 of this code workbook the requirement for a water deed in the amount of 0.90 acre feet. Is the requirement of this subsection the same? If so, the city may desire to clarify the language (i.e., ....until the water rights as required in title 11 of this code, are deeded to the city". This way, the language is more similar and ties the provisions together. Please advise.

Response: **Please clarify the language to refer to Title 11.**

4. Payment Of Impact Fees: A building permit shall not be issued until all required impact fees have been paid.

5. Deposit Of Guarantee; Certificate Of Occupancy: As a condition of receiving a building permit, the applicant shall deposit with the city treasurer an amount specified from time to time by resolution of the city council. The deposit is to guarantee that all of the terms and conditions of the permit are met, improvements shown on the site plan are completed, all damage done to public facilities and improvements are repaired, and all required fees paid. If all of the conditions of the preceding sentence are met, the deposit shall be returned to the applicant when a certificate of occupancy is issued.

6. Temporary Certificate Of Occupancy:

a. A temporary certificate of occupancy may be issued at the discretion of the building official if the building official determines that the building is substantially complete, no life or health threatening hazards exist on the property, and the conditions of subsection A of this section are met. A temporary certificate of occupancy shall be issued only when the final checklist of items to be completed are minor in nature. As a condition of receiving a temporary occupancy permit, the applicant must agree to complete the items shown on the final checklist by the deadline or deadlines specified on the checklist by the building official.

b. A temporary occupancy permit can be issued between October 15 and April 15 if weather precludes completion of a driveway to the home. If city ordinance or CCR guidelines require landscaping that cannot be completed during the winter (October 15-April 15) a temporary occupancy permit can be issued for this cause as well.

This above subsection B6b was moved here from the "fees" subsection C below since the language is not relative to fees. **Good**

C. Fees:

1. Building Permit: The city will charge a fee for each building permit. The fee shall be calculated based on the method provided by the building code and in the amount specified by resolution of the city council.

Suggest inclusion of underlined. Agree?

Response: Yes \_\_ **X** \_\_, No \_\_\_\_, or change as follows:

2. Plan Review: The city will charge a fee for reviewing all plans submitted for a building permit. The amount of the fee shall be specified by resolution of the city council and is intended to recover the city's actual costs incurred. The plan review fee shall be in addition to the building permit fee.

3. Temporary Building Permit: The city will charge a fee for a temporary building permit in the amount specified by resolution of the city council. The fee shall be in addition to the building permit fee.

4. Temporary Certificate Of Occupancy: The city will charge a fee for a temporary certificate of occupancy in the amount specified by resolution of the city council. The fee shall be in addition to the building permit fee.

D. Enforcement And Penalty:

1. It shall be a class C misdemeanor, subject to penalty as provided in section 1-4-1 of this code, to erect, construct, enlarge, alter, repair, move, demolish, occupy or use any building or structure in the city in violation of, ~~with~~ or without complying with the provisions of, the building code adopted by subsection A of this section.

2. It shall be a class C misdemeanor, subject to penalty as provided in section 1-4-1 of this code, for any person to remove a stop work order posted upon a building or a project or a building within a project by the building official.

3. It shall be a class C misdemeanor, subject to penalty as provided in section 1-4-1 of this code, for any person to continue working on any building or project or building within a project when a stop work order has been posted by the building official.

Suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes \_ **X** \_\_\_\_, No \_\_\_\_, or change as follows:

4. The building official may issue citations for any violation of the building code adopted by subsection A of this section. (Ord. 2007-08, 5-9-2007)

9-1-2: PLUMBING CODE:

A. Adoption Of Plumbing Code: The nationally recognized plumbing code, as adopted by the Utah uniform building code commission and Utah division of occupational and professional licensing, as it may be amended from time to time, is hereby adopted as the city plumbing code, subject only to those ~~exemptions~~ amendments as may be provided by state law as set forth in Utah Code Annotated ~~section 58-56-1 et seq.~~ title 15A, chapters 3 and 4. The same is adopted as if fully set forth herein. The city recorder shall maintain at least one copy of said plumbing code in his/her office for use and inspection by the public as required by state law.

Suggest omission of strikeout text and inclusion of underlined. The statute does not appear to provide for exemptions, just amendments, and the statute referenced is outdated. Agree?

Response: Yes \_ **X** \_\_\_\_, No \_\_\_\_, or change as follows:

B. Penalty: It shall be a class C misdemeanor, subject to penalty as provided in section 1-4-1 of this code, to erect, construct, enlarge, alter, repair, move, demolish, occupy or use any building or structure in the city in violation of, or without complying with, the provisions of the plumbing code adopted in subsection A of this section. (Ord. 2007-08, 5-9-2007)

Suggest inclusion of underlined. Agree?

Response: Yes \_ **X** \_\_\_\_, No \_\_\_\_, or change as follows:

9-1-3: MECHANICAL CODE:

A. Mechanical Code Adopted: The nationally recognized mechanical code, as adopted by the Utah uniform building code commission and Utah division of occupational and professional licensing, as it may be amended from time to time, is hereby adopted as the city mechanical code, subject only to those ~~exemptions~~ amendments as may be provided by state law as set forth in Utah Code Annotated ~~section 58-56-1 et seq~~ title 15A, chapters 3 and 4. The same is adopted as if fully set forth herein. The city recorder shall maintain at least one copy of said mechanical code in his/her office for use and inspection by the public as required by state law.

Suggest omission of strikeout text and inclusion of underlined. The statute does not appear to provide for exemptions, just amendments, and the statute referenced is outdated. Agree?

Response: Yes \_ **X** \_\_\_\_, No \_\_\_\_, or change as follows:

B. Penalty: It shall be a class C misdemeanor, subject to penalty as provided in section 1-4-1 of this code, to erect, construct, enlarge, alter, repair, move, demolish, occupy or use any building or structure in the city in violation of, or without complying with, the provisions of the mechanical code adopted in subsection A of this section. (Ord. 2007-08, 5-9-2007)

Suggest inclusion of underlined. Agree?

Response: Yes \_ **X** \_\_\_\_, No \_\_\_\_, or change as follows:

9-1-4: ELECTRICAL CODE:

A. Electrical Code Adopted: The national electrical code, as adopted by the Utah uniform building code commission and Utah division of occupational and professional licensing, as it may be amended from time to time, is hereby adopted as the city electrical code, subject only to those ~~exemptions~~ amendments as may be provided by state law as set forth in Utah Code Annotated ~~section 58-56-1 et seq.~~ title 15A, chapters 3 and 4. The same is adopted as if fully set forth herein. The city recorder shall maintain at least one copy of said electrical code in his/her office for use and inspection by the public as required by state law.

Suggest omission of strikeout text and inclusion of underlined. The statute does not appear to provide for exemptions, just amendments, and the statute referenced is outdated. Agree?

Response: Yes ☒ ~~X~~ ☐, No ☐, or change as follows:

B. Penalty: It shall be a class C misdemeanor, subject to penalty as provided in section 1-4-1 of this code, to erect, construct, enlarge, alter, repair, move, demolish, occupy, or use any building or structure in the city in violation of, or without complying with, the provisions of the electrical code adopted in subsection A of this section. (Ord. 2007-08, 5-9-2007)

Suggest inclusion of underlined. Agree?

Response: Yes ☒ ~~X~~ ☐, No ☐, or change as follows:

9-1-5: FUEL GAS CODE:

A. Fuel Gas Code Adopted: The nationally recognized fuel gas code, as adopted by the Utah uniform building code commission and Utah division of occupational and professional licensing, as it may be amended from time to time, is hereby adopted as the city fuel gas code, subject only to those ~~exemptions~~ amendments as may be provided by state law as set forth in Utah Code Annotated ~~section 58-56-1 et seq.~~ title 15A, chapters 3 and 4. The same is adopted as if fully set forth herein. The city



recorder shall maintain at least one copy of said fuel gas code in his/her office for use and inspection by the public as required by state law.

Suggest omission of strikeout text and inclusion of underlined. The statute does not appear to provide for exemptions, just amendments, and the statute referenced is outdated. Agree?

Response: Yes \_ **X** \_\_\_\_, No \_\_\_\_, or change as follows:

B. Penalty: It shall be a class C misdemeanor, subject to penalty as provided in section 1-4-1 of this code, to erect, construct, enlarge, alter, repair, move, demolish, occupy or use any building or structure in the city in violation of, or without complying with, the provisions of the fuel gas code adopted in subsection A of this section. (Ord. 2007-08, 5-9-2007)

Suggest inclusion of underlined. Agree?

Response: Yes \_ **X** \_\_\_\_, No \_\_\_\_, or change as follows:

#### 9-1-6: ENERGY CODE:

A. Adoption Of Energy Code: The nationally recognized energy code, as adopted by the Utah uniform building code commission and Utah division of occupational and professional licensing, as it may be amended from time to time, is hereby adopted as the city ~~fuel gas~~ energy code, subject only to those ~~exemptions~~ amendments as may be provided by state law as set forth in Utah Code Annotated section 58-56-1 et seq. title 15A, chapters 3 and 4. The same is adopted as if fully set forth herein. The city recorder shall maintain at least one copy of said energy code in his/her office for use and inspection by the public as required by state law.

Suggest omission of strikeout text and inclusion of underlined. The statute does not appear to provide for exemptions, just amendments, and the statute referenced is outdated. Agree?

Response: Yes \_ **X** \_\_\_\_, No \_\_\_\_, or change as follows:

B. Penalty: It shall be a class C misdemeanor, subject to penalty as provided in section 1-4-1 of this code, to erect, construct, enlarge, alter, repair, move, demolish, occupy or use any building or structure in the city in violation of, or without complying with, the provisions of the energy code adopted in subsection A of this section. (Ord. 2013-04, 5-28-2013)

Suggest inclusion of underlined. Agree?

Response: Yes \_ **X** \_\_\_\_, No \_\_\_\_, or change as follows:

## CHAPTER 2

### IMPACT FEES

#### ARTICLE A. TRANSPORTATION IMPACT FEE

For statute authority, see UCA § 11-36a-101 et seq.

The statutes have been amended since the enactment of this legislation and differ when compared with this ordinance. The city may consider only retaining sections 9-2A-1 through 9-2A-4 of this article, then referring to the state statutes for administration and procedures guidance. A review with the city attorney may be appropriate. Please be sure to provide specific instructions.

There are also references in the ordinance to "road impact fee". Please specify which term is correct.

Response: **Transportation impact fee is correct**

Also, we have placed this ordinance as an "article" so as the city imposes additional impact fees, such ordinances can be included in articles following.

SECTION:

9-2A-1: Title And Applicability  
9-2A-2: Findings  
9-2A-3: Definitions  
9-2A-4: Imposition Of Impact Fee  
9-2A-5: Appeal Of Impact Fee  
9-2A-6: Trust Account Established  
9-2A-7: Credit For Actual Costs  
9-2A-8: Appeal Of Administrative Decisions

9-2A-1: TITLE AND APPLICABILITY:

This article may be cited as the *CITY OF WOODLAND HILLS TRANSPORTATION IMPACT FEE ORDINANCE*. This article shall apply to any new user requiring a building permit to construct a new building, which results in additional impacts. (Ord. 2007-02, 1-9-2007, eff. 1-10-2007)

9-2A-2: FINDINGS:

The city council finds, determines and declares:

A. The city must expand its transportation system in order to maintain current levels of service ~~of~~ if new development ~~are~~ is to be accommodated.

Suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes \_\_ **X** \_\_, No \_\_\_\_, or change as follows:

B. The state legislature, through enactment of land development statutes and police power regulations, and courts of the state in a series of judicial decisions, have set forth the criteria for impact fees.

C. Imposition of impact fees is one of the preferred methods of ensuring that development bears a proportionate share of the costs of capital facilities necessary to accommodate such development. This must be done in order to promote and protect the public health, safety and welfare.

D. Residential development will generate traffic demands necessitating the construction of facilities and improvements for which impact fees are imposed.

E. The fees established in this article are based upon and do not exceed the costs of providing new capacity, construction and improvements necessitated by the new developments for which the fees are imposed.

F. The report of Horrocks Engineers, dated October 3, 2006 and December 22, 2006, ~~for~~ is a reasonable and defensible methodology and analysis for the determination of the impact of new development on the transportation system needs and costs of improvements in the city. Said report is hereby adopted by reference and included as a part of this article. (Ord. 2007-02, 1-9-2007, eff. 1-10-2007)

Suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes \_\_ **X** \_\_, No \_\_\_\_, or change as follows:

9-2A-3: DEFINITIONS:

As used in this article:

**CAPITAL IMPROVEMENT:** Includes any adopted transportation system capital facility need, engineering or design study, land surveys, land acquisition, permitting and construction, erection or placement of facilities, including, but not limited to:

- A. Acquisition of land for right of way or facility purposes;
- B. Construction of access, paving and parking facilities;
- C. Provision for relocation of utility lines;
- D. Site development activities involving grading, shaping, berming and landscaping and vegetation;
- E. Provision, construction or erection of bridges and lighting; or
- F. Acquisition of capital facilities with a useful life of ten (10) years or greater.

**EXPANSION OF THE CAPACITY OF A SYSTEM FACILITY:** Applies to all land acquisition or to the addition, extension or expansion of transportation facilities.

**FEE PAYER:** A person or other entity commencing construction or placement of a residential dwelling unit and which requires the issuance of a building permit. (Ord. 2007-02, 1-9-2007, eff. 1-10-2007) !DEFEND!

**9-2A-4: IMPOSITION OF IMPACT FEE:**

A. Except as provided in section 9-2A-5 of this article, any person, after the effective date hereof, seeking the issuance of a construction or building permit for a residential dwelling unit shall be required to pay a transportation facility impact fee in the amount of eleven thousand dollars (\$11,000.00).

B. Beginning January 1, 2008, the amount of the impact fee shall be adjusted to account for inflation. Adjustment shall be made using the nationally accepted construction cost index published by McGraw-Hill Publishing Company Engineering News-Record. The finance director shall prepare a recommended adjustment based on said index and submit the same to the city council for approval not later than December 15 of each year beginning in 2007. The fee shall be adjusted by resolution of the city council based on the recommendation of the finance director. (Ord. 2007-02, 1-9-2007, eff. 1-10-2007)

Please be sure this section 9-2A-4 is still applicable and accurately describes the imposition of the impact fee.

Response: Yes, leave as is \_\_\_\_\_ , or change as follows: **Change the last part of Paragraph A by saying "...any person seeking the issuance of a construction or building permit shall be required to pay a transportation impact fee according to the current city fee schedule."**

**-Also remove paragraph B.**

**-Please remove 9-2A-5 through 9-2A-8 and make reference to state statutes.**

#### 9-2A-5: APPEAL OF IMPACT FEE:

If a fee payer disagrees with the calculation of the impact fee under 9-2A-4 of this article, he may appeal the fee by preparing and submitting to the city council an independent fee calculation for the construction or building activity for which the permit is sought. Such independent calculation shall set forth the proportionately different costs incurred by the city in the provision of capital improvements to serve the fee payer's development. Any such independent calculation shall be prepared and presented by qualified professionals and follow best practices and methodologies. The impact fee may be adjusted based on the date and information provided by the fee payer after review and approval by the city council. (Ord. 2007-02, 1-9-2007, eff. 1-10-2007)

#### 9-2A-6: TRUST ACCOUNT ESTABLISHED:

There is hereby established a transportation impact fee trust account for the entire limits of the city for the collection and expenditure of all impact fees provided in this article. All funds collected from the impact fee imposed in section 9-2A-4 of this article shall be deposited in said account. Funds expended from said account shall be used only to pay the costs associated with the items set forth in the study adopted by subsection 9-2A-2F of this article, which may be amended from time to time and which serves as the basis for calculating such fees. No funds shall be used to pay for operating or maintenance costs. (Ord. 2007-02, 1-9-2007, eff. 1-10-2007)

#### 9-2A-7: CREDIT FOR ACTUAL COSTS:

A fee payer shall be given dollar for dollar credit for the actual costs, if any, he may be required to make or may voluntarily make, where such costs are or were for land or facilities contained in the study adopted by subsection 9-2A-2F of this article and which serves as the basis for

calculating the impact fee. (Ord. 2007-02, 1-9-2007, eff. 1-10-2007)

9-2A-8: APPEAL OF ADMINISTRATIVE DECISIONS:

Any decision made by the mayor, **zoning administrator** or finance director in administering this article may be appealed to the city council. (Ord. 2007-02, 1-9-2007, eff. 1-10-2007)

According to section 10-3-1 of this code workbook, the above reference should be to the "zoning enforcement officer". Agree?

Response: \_\_\_ **X** \_\_\_ Yes; \_\_\_\_\_ No

ARTICLE B. WATER IMPACT FEE

SECTION:

- 9-2B-1: Title And Applicability
- 9-2B-2: Findings
- 9-2B-3: Definitions
- 9-2B-4: Imposition Of Impact Fee

9-2B-1: TITLE AND APPLICABILITY:

This article may be cited as the CITY OF WOODLAND HILLS WATER IMPACT FEE ORDINANCE. This article shall apply to any new user requiring a building permit to construct a new building, which results in additional impacts. (Ord. ??)

9-2B-2: FINDINGS

The city council finds, determines and declares:

- A. The city must expand its water system in order to maintain current levels of service if new development is to be accommodated.

B. The state legislature, through enactment of land development statutes and police power regulations, and courts of the state in a series of judicial decisions, have set forth the criteria for impact fees.

C. Imposition of impact fees is one of the preferred methods of ensuring that development bears a proportionate share of the costs of capital facilities necessary to accommodate such development. This must be done in order to promote and protect the public health, safety and welfare.

D. Residential development will generate demands for water necessitating the construction of facilities and improvements for which impact fees are imposed.

E. The fees established in this article are based upon and do not exceed the costs of providing new capacity, construction and improvements necessitated by the new developments for which the fees are imposed.

F. The 2002 Water Impact Fee Study done by LEI Engineers is a reasonable and defensible methodology and analysis for the determination of the impact of new development on the water system needs and costs of improvements in the city. Said report is hereby adopted by reference and included as a part of this article.

#### 9-2B-3: DEFINITIONS:

As used in this article:

CAPITAL IMPROVEMENT: Includes any adopted water system capital facility need, engineering or design study, land surveys, land acquisition, permitting and construction, erection or placement of facilities, including, but not limited to:

A. Acquisition of land for right of way or facility purposes;

B. Construction of access, paving and parking facilities;

C. Provision for relocation of utility lines;

D. Site development activities involving grading, shaping, berming and landscaping and vegetation;

E. Provision, construction or erection of bridges and lighting; or

F. Acquisition of capital facilities with a useful life of ten (10) years or greater.



EXPANSION OF THE CAPACITY OF A SYSTEM FACILITY: Applies to all land acquisition or to the addition, extension or expansion of water facilities.

FEE PAYER: A person or other entity commencing construction or placement of a residential dwelling unit and which requires the issuance of a building permit. (Ord. ?? eff. ??)

#### 9-2B-4: IMPOSITION OF IMPACT FEE:

A. Any person, after the effective date hereof, seeking the issuance of a construction or building permit for a residential dwelling unit shall be required to pay a water impact fee according to the current city fee schedule.

### ARTICLE C. WELL IMPACT FEE

#### SECTION:

9-2C-1: Title And Applicability

9-2C-2: Findings

9-2C-3: Definitions

9-2C-4: Imposition Of Impact Fee

#### 9-2C-1: TITLE AND APPLICABILITY:

This article may be cited as the CITY OF WOODLAND HILLS WELL IMPACT FEE ORDINANCE. This article shall apply to any new user requiring a building permit to construct a new building, which results in additional impacts. (Ord. ??)

#### 9-2C-2: FINDINGS

The city council finds, determines and declares:

A. The city must add a new well in order to maintain current levels of service if new development is to be accommodated.

B. The state legislature, through enactment of land development statutes and police power regulations, and courts of the state in a series of judicial decisions, have set forth the criteria for impact fees.

C. Imposition of impact fees is one of the preferred methods of ensuring that development bears a proportionate share of the costs of capital facilities necessary to accommodate such development. This must be done in order to promote and protect the public health, safety and welfare.

D. Residential development will generate demands for water necessitating the construction of facilities and improvements for which impact fees are imposed.

E. The fees established in this article are based upon and do not exceed the costs of providing new capacity, construction and improvements necessitated by the new developments for which the fees are imposed.

F. The 2002 Water Impact Fee Study done by LEI Engineers is a reasonable and defensible methodology and analysis for the determination of the impact of new development on the water system needs and costs of improvements in the city. Said report is hereby adopted by reference and included as a part of this article.

#### 9-2C-3: DEFINITIONS:

As used in this article:

CAPITAL IMPROVEMENT: Includes any adopted capital facility need for the well, engineering or design study, land surveys, land acquisition, permitting and construction, erection or placement of facilities, including, but not limited to:

A. Acquisition of land for right of way or facility purposes;

B. Construction of access, paving and parking facilities;

C. Provision for relocation of utility lines;

D. Site development activities involving grading, shaping, berming and landscaping and vegetation;

E. Provision, construction or erection of bridges and lighting; or

F. Acquisition of capital facilities with a useful life of ten (10) years or greater.

EXPANSION OF THE CAPACITY OF A SYSTEM FACILITY: Applies to all land acquisition or to the addition, extension or expansion of water facilities.

FEE PAYER: A person or other entity commencing construction or placement of a residential dwelling unit and which requires the issuance of a building permit. (Ord. ?? eff. ??)

9-2C-4: IMPOSITION OF IMPACT FEE:

- A. Any person, after the effective date hereof, seeking the issuance of a construction or building permit for a residential dwelling unit shall be required to pay a well impact fee according to the current city fee schedule.

**TITLE 10**

CHAPTER 1

## INTENT AND APPLICATION

### SECTION:

- 10-1-1: Title
- 10-1-2: Authority
- 10-1-3: Purposes And Considerations
- 10-1-4: Interpretation And Application
- 10-1-5: Separability; Conflicting Ordinances Repealed

#### 10-1-1: TITLE:

This title is entitled the *ZONING ORDINANCE FOR THE CITY OF WOODLAND HILLS, UTAH*. (Ord. 1993-05, 6-6-1993)

#### 10-1-2: AUTHORITY:

This zoning title has been adopted under the authority of the Utah Laws 1991, ch. 235, as amended, chapter 9, municipal land use and development act, part 4, section 10-9-401 (general powers). (Ord. 1993-05, 6-6-1993)

The above statute reference is outdated. Suggest this section be amended to state:

This zoning title has been adopted under the authority of the municipal land use and development act, Utah Code Annotated title 10, chapter 9a. (Ord. 1993-05, 6-6-1993; amd. 2015 Code)

Agree?

Response: ☒ Yes; ☐ No (change as follows):

#### 10-1-3: PURPOSES AND CONSIDERATIONS:

This zoning title has been made in accordance with a general plan and designed to lessen congestion in the street; to secure safety from fire and other dangers; to protect the health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid under concentration of population; and to facilitate the adequate

provision of transportation, water, sewerage, schools, parks and other public requirements. These regulations have been made with reasonable consideration, among other things, to the character of the community, and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city. (Ord. 1993-05, 6-6-1993)

#### 10-1-4: INTERPRETATION AND APPLICATION:

A. In interpreting and applying the provisions of this zoning title, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort and general welfare.

B. Whenever the regulations of this zoning title impose higher standards than are required in any other ordinance or regulation, private deed restriction or private covenant, these regulations shall govern, but if the requirements of the other ordinance, regulation or private covenant are the more restrictive, then those requirements shall govern. (Ord. 1993-05, 6-6-1993)

#### 10-1-5: SEPARABILITY; CONFLICTING ORDINANCES REPEALED:

If any section subsection, sentence, clause or phrase of this zoning title is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this zoning title. All ordinances or parts of ordinances if the city, in conflict with any regulation, provision, amendment or supplement of this zoning title are, to the extent of such conflict, hereby repealed. (Ord. 1993-05, 6-6-1993)

## DEFINITIONS

### SECTION:

#### 10-2-1: Definitions

#### 10-2-1: DEFINITIONS:

**ACCESSORY APARTMENT:** A housing unit which is self-contained but incorporated within an existing single-family dwelling structure which will not substantially alter the structure or appearance of the structure.

**ACCESSORY USE OR OUTBUILDING STRUCTURE:** Any use or non-dwelling structure related to the principal use of a dwelling structure on the same lot and serving a purpose customarily incidental to the use of the principal dwelling structure.

**ANTENNA:** A metallic device, such as a rod or wire, for receiving radio waves. An antenna also includes a satellite dish or disc antenna which is used for receiving sound and television signals from an orbiting satellite.

**AREA OF BUILDINGS:** The area at the ground level of the main building and all accessory buildings, excluding unenclosed porches, terraces and steps measured from the outside surface of exterior walls.

**AREA OF DWELLING UNIT:** The sum of the gross floor areas above the basement level, including those rooms and closets having the minimum ceiling height, light, ventilation and other features as required by the building code of the city.

**BASEMENT OR CELLAR:** The space of a building where the floor level is more than four feet (4') below the adjoining finished grade.

**BEGINNING OF CONSTRUCTION:** The incorporation of labor and material on a building site, including roads and utilities.

**BOARD:** The board of adjustment for the city of Woodland Hills, Utah.

**BUILDING:** Any enclosed structure, having a roof supported by columns, walls or other support used for the purpose of housing, enclosing or storing of persons, animals or personal property.

**BUILDING HEIGHT:** The vertical distance to a maximum of thirty five feet (35') from the natural lowest point to the highest point of the coping

of a flat roof, or to the deck line of a mansard roof, or the mean height level between eaves and ridge for gable, hip or gambrel roofs.

**BUILDING INSPECTOR:** The person authorized by the city to issue certificates of occupancy and to perform all inspections on building code compliance for all structures - newly constructed or renovated. The building inspector and zoning enforcement officer may be the same person.

The city uses both references of "building inspector" and "building official" throughout this code workbook. If the city desires, all references can be made the same. Please specify.

Response: **Please make all references say “building inspector.”**

**BUILDING LINE:** A line established by this title, **generally parallel with the measured from the front lot line**, defining the minimum limits of a front yard in which no building or structure may be located above the ground, except as may be provided in such ordinance. Also, the building line may be greater than the minimum front yard setback line.

The above bolded text is misstated. Can the city provide the correct language?

Response: **Bolded text should say: “generally parallel with the front lot line,”**

**CITY:** The city of Woodland Hills, Utah.

**CITY COUNCIL:** The city council of the city of Woodland Hills, Utah.

**CITY ENGINEER:** The city engineer of the city of Woodland Hills, Utah.

**CLUSTER HOUSING:** Attached or detached single-family dwellings grouped together on the most buildable portions of a site, leaving the remainder in common open space areas. Sizes, shapes and orientation of lots may vary from traditional zoning requirements under the cluster concept.

**CODE:** The building code of the city of Woodland Hills, Utah.

The simple reference of "code" could be interpreted to mean "this code" and as such,

suggest omission of this definition. Where references to "code" in this code are to mean the "building code", such will be stated. Agree?

Response: \_\_ **X** \_\_ Yes; \_\_\_\_\_ No

COMMISSION: The city planning commission of Woodland Hills, Utah.

COMMON LAND: The land in a subdivision or development area not owned as private land or occupied by dwellings, created for common usage by restrictions, easements, covenants or other conditions running with the land, and which is held for the use and enjoyment by or for the owners or occupants of the dwellings in a subdivision or development area.

COUNTY: The county of Utah, state of Utah.

Suggest inclusion of underlined. Agree?

Response: Yes \_\_ **X** \_\_, No \_\_\_\_\_, or change as follows:

COURT: An open space, other than a yard, bounded on two (2) or more sides by exterior walls of the building, or bounded by exterior walls of a building and lot lines.

CRITERION: A principal by which the planning of a development area shall be guided.

DETACHED: Not connected in any manner by walls or other structural supports.

DEVELOPER: A person commencing proceedings under this title to effect the development of land for himself or for another.

DEVELOPMENT AREA: The minimum area of land permitted by this title to be developed by a single owner or group of owners, acting jointly, which may consist of a parcel or assembled parcels and includes a related group of one-family dwellings planned and developed as an entity under the



planned unit development procedures.

DWELLING: A building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons, but not including a tent, trailer or trailer coach.

DWELLING, SINGLE-FAMILY DETACHED: A detached building designed or used exclusively for residence purposes by one family or housekeeping unit.

FAMILY: A person living alone or group of persons related by blood, marriage or adoption, including the degree of first cousins, or not more than three (3) persons not related by blood, marriage or adoption, who are living together in a single dwelling unit and maintaining a common household. A family includes domestic servants, foster children and not more than one gratuitous guest residing with such family.

Suggest inclusion of underlined. Agree?

Response: Yes ☒ No ☐, or change as follows:

FENCE: A barrier constructed of materials, including dirt, but excluding evergreen or other shrubbery, erected for purposes of protection, confinement, enclosure or privacy.

FLOOR AREA: The total area of dwelling, excluding the basement, garage or carport.

GARAGE, PRIVATE: A detached accessory building or portion of the principal building used primarily for the storage of passenger vehicles by the families resident upon the premises.

GARAGE, STORAGE: A main or accessory building, other than a private garage, used for the parking or temporary storage of passenger automobiles and in which no commercial service shall be provided.

GRADE, ESTABLISHED STREET: The elevation established by the city at the roadway, centerline or curb in front of the lot.

GRADE, FINISHED: The elevation of the finished surface of the ground adjoining the building after final grading and normal settlement at the front of the building.

GRADE, NATURAL: The elevation of the undisturbed natural surface of the

ground prior to any excavation or fill.

HOME OCCUPATION: Any use conducted entirely within a dwelling and which is clearly incidental and secondary to the residential use of the dwelling and which does not change the character thereof and which complies with all of the provisions of subsection 10-15-4A of this title.

HOMEOWNER ASSOCIATION: An incorporated, nonprofit organization operating under the recorded land agreements, through which each lot owner of a development area is a member, and each lot is subject to charges for a proportionate share of the expenses for the organization's activities, such as maintaining the common property.

HOUSEHOLD PETS: Animals or fowl ordinarily permitted in a residence and kept for company or pleasure, such as dogs, cats, fish and canaries. Household pets do not include inherently or potentially dangerous animals or fowl, or those normally considered agricultural livestock.

IDENTIFICATION: That by which a person, thing, product, etc., can be identified or recognized, and those specific symbols, traits, trademarks, characteristics, etc., which provide such recognition.

JUNK: Old or scrap copper, brass, rope, rags, batteries, paper, rubber, junked, dismantled ed or wrecked automobiles or parts thereof; iron, steel and other old scrap ferrous or nonferrous materials.

Suggest omission of ~~strikeout~~ text and inclusion of underlined. Agree?

Response: Yes    **X**   , No       , or change as follows:

LAND COVERAGE: The percentage of a lot covered by the main and accessory building.

LANDSCAPING: Shall consist of any of the following or combination thereof: materials such as, but not limited to, grass, hardy ground covers, shrubs, vines, hedges and trees; and nonliving durable material commonly utilized in landscaping, such as, but not limited to, rocks, pebbles, sand, walls or fences, but not including paving as a principal design element.

LIVABLE AREA: ~~That~~e totally enclosed space within the principal structure having an average ceiling height of a minimum of four feet (4') above the finished grade.

Suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes    **X**   , No       , or change as follows:

LOT: A division of land separated from other divisions for purposes of sale, lease or separate use, described on a recorded subdivision plat, recorded survey map, or by metes and bounds.

LOT AREA: The total land area, measured in square feet or acres, contained within the lot lines.

LOT, CORNER: A lot located at the intersection of two (2) streets or a lot bounded on two (2) sides by a curved street, any two (2) chord of which form an angle of one hundred thirty five degrees (135°) or less.

LOT DEPTH: The average horizontal distance between the front and rear lot lines.

LOT, DOUBLE FRONTAGE: A lot having frontage in two (2) nonintersecting streets.

LOT FRONTAGE: The width of the lot or parcel of land measured at the street line.

LOT, INTERIOR: A lot other than a corner lot.

LOT LINE, FRONT: The line separating the lot from a street. In the case of a corner lot, the narrow side on the street shall be considered the front of the lot.

LOT LINE, REAR: The lot line opposite and most distant from the front lot line.

LOT LINE, SIDE: A lot line which is neither a front nor a rear lot line.

LOT LINES: The property lines bounding a lot.

LOT OF RECORD: Land designated as a separate parcel on a plat, map or deed in the records of Utah County.

LOT WIDTH: The average width of the lot measured at the front yard setback line parallel to the front lot line.

LOT, ZONING: A parcel of land abutting a dedicated street, occupied or intended to be occupied by a principal permitted or conditionally permitted use and/or accessory use, together with such open spaces as required by this title. Unless the context clearly indicates the contrary, the term "lot" is used synonymously with "zoning lot" and it may or may not be a lot of record.

MAIN (PRINCIPAL) BUILDING: The building occupied by the main use or activity in or intended for the premises, all parts of which building are connected in a substantial manner by common walls and a continuous roof.

MAP: A drawing showing geographic, topographic or other physical features of the land.

**NONCONFORMING BUILDING:** A building lawfully existing at the time the zoning regulations, or an amendment thereto, became effective but which does not conform to the area, height or bulk of building, yard or other regulations of the district in which it is located.

We point out that Utah Code Annotated section 10-9a-511 now utilizes the term "noncomplying structure". If the city desires to change their reference to match that of the state statute, please be advised that significant language amendments to chapter 14 of this title are required. Please specify.

Response: **"Nonconforming building" as stated will serve the City's purposes.**

NONCONFORMING LOT: A lot lawfully existing at the time the zoning regulations, or an amendment thereto, became effective but which does not conform to the lot area, width, access or other regulations of the district in which it is located.

NONCONFORMING USE: The use of a building or land lawfully existing at the time the zoning regulations, or an amendment thereto, became effective but which does not conform to the use regulations, off street

parking and loading requirements, performance standards or other use regulations of the district in which it is located.

OCCUPANCY CERTIFICATE: An official statement certifying that a building, other structure or parcel of land is in compliance with the provisions of all applicable codes, or is a lawfully existing nonconforming building or use and hence may be occupied and used lawfully for the purpose designated thereon.

OFF STREET PARKING AREA: Any open or enclosed area other than a street or other public right of way used for the temporary storage of automobiles and available to the public, whether for a fee, free or as an accommodation for clients or customers. All off street parking areas shall conform to the design standards presented in these regulations, and no required off street parking area shall charge a fee of any type to its users.

OPEN SPACE: The use of land which leaves soil generally undisturbed and upon which natural vegetation, whether or not native to the area, occupies the major visible aspect of the land.

PARKING: An area designed in accordance with the provisions of this title, located within a structure or in the open, exclusive of driveways and aisles, for the parking of a motor vehicle.

PATIO (TERRACE): An open area permanently surfaced or constructed and usually raised slightly above the lawn surface, the use of which is customarily incidental to that of the main use of the land and which is located on the same lot with the main building or use.

PERFORMANCE STANDARD: A criterion established to control the dust, smoke, fire and explosive hazards, glare and heat, noise, odor, toxic and noxious matter, vibrations, and other conditions created by or inherent in uses of land or buildings.

PLAN: A drawing of a proposed design or of work to be performed.

PLAN, FINAL SITE: The final plan (plat) prepared by a developer based upon the approved preliminary plan (plat) of a proposed development or development area, which consists of detailed drawings, specifications and agreements for the construction of the site improvements and buildings for the proposed development or development area.

PLAN, GENERAL: The long range plan for the desirable use of land area and general road configuration of the city of Woodland Hills as officially adopted and as amended from time to time by the planning commission and city council. The purpose of such plan is, among other

things, to serve as a guide for future land use development and zoning decisions to meet community needs; in the subdivision and use of undeveloped land; and in the acquisition of rights of way or sites for such public purposes as streets, parks, schools and public buildings.

PLAN, PRELIMINARY SITE: A drawing prepared by a developer, which may include explanatory exhibits and text, submitted to the designated authority for the purpose of study of a proposed development of land, or a preliminary plan (plat) of land use of a development area which, if approved by the designated authority, provides the basis for proceeding with the preparation of the final plan (plat) of a development or development area.

PLANNED UNIT DEVELOPMENT (PUD): Land under unified control, planned and developed as a whole in a single development operation or a definitely programmed series of development operations, including all lands and buildings. Planned unit developments are designed and developed in accordance with an overall development plan subject to the provisions of these regulations.

PLAT: A map of a lot, parcel, subdivision or development area on which the lines of each element are shown by accurate distances and bearings.

PORCH: An entrance or structure attached to the outside of an outer wall of a building, one or two (2) stories in height, with integral foundations, which is open on one, two (2) or three (3) sides and which may have railings and banisters or a parapet and which is roofed.

PRIVATE LAND: Land in a subdivision or development area which shall be adjoining, attached and assigned to a dwelling, to be held as an open space in ownership with the dwelling in the subdivision or development area, and which shall be identified on subdivision and development plans submitted to the city.

QUASI-PUBLIC USE: A use operated by a private nonprofit educational, religious, recreational, charitable or philanthropic institution, such use having the purpose primarily of serving the general public, such as churches, private schools, hospitals and similar uses.

RECREATION USE, PRIVATE: Recreation facilities operated as a business on privately owned property and may be open to the public for a fee, such as a golf course, ski lift, tennis court, etc.

RECREATION USE, PUBLIC: Recreation facilities operated by a public agency and open to the public, with or without fees.

REGULATION: A rule, restriction or other mandatory provision in this

title intended to control, require or prohibit an act.

**SHORT-TERM RENTAL:** Rental of a single-family dwelling or any portion of the dwelling to a person(s) or group for a period of less than 30 days.

**SIGN:** Any display, figure, painting, drawings, placard, poster or other device visible from a public way which is designed, intended or used to convey a message, advertise, inform or direct attention to a person, institution, organization, activity, place, object or product. It may be a structure or part thereof painted on or attached directly or indirectly on a structure. This definition shall not include any flag, pennant or insignia of any nation, state, city or other political units, as well as any sign, board or surface used to display or announce official notice of such political units.

**SIGN, ANIMATED:** A sign with action or motion, color changes requiring electrical energy, electronic or manufactured sources of supply, including wind activated elements.

**SIGN AREA:** All the surfaces visible from a public way and shall be measured as the area enclosed by one rectangle, the sides of which make contact with the extreme points or edges of the sign, excluding the supporting structure if such structure does not form a part of the advertisement of the sign proper. The area of a sign composed of characters or words attached directly to a larger, uniform building wall surface shall be the smallest rectangle which encloses the entire group.

**SIGN, BULLETIN BOARD:** An announcement sign which directs attention to and is located on the lot of a public or semipublic institution.

**SIGN, CONSTRUCTION:** A sign which is located on a lot where current ongoing controlled construction is in progress, which indicates the name of the project, architect, engineer, contractor or other similar information concerning the name of the project.

**SIGN, DIRECTIONAL:** Any sign which serves solely to designate the location or direction of any place or area.

**SIGN, ELECTRIC:** Any sign containing electrical wiring which is attached or intended to be attached to an electrical energy source.

**SIGN, GROUND:** A freestanding sign which is supported by one or more poles, posts or braces in or upon the ground.

**SIGN HEIGHT:** The vertical distance measured from the established grade at the point where the sign structure meets the ground to the top of

the structure.

SIGN, ILLUMINATED: Any sign which emanates light either by means of exposed tubing or lamps, or shining onto its surface, or by means of illumination transmitted through the sign faces.

A. External Illumination: A light source which is placed outside of or away from the sign in a manner so as to illuminate the sign. This type of illumination is also referred to as indirect.

B. Internal Illumination: A light source which is enclosed within the sign and viewed through a translucent panel. This type of illumination is also referred to as direct.

SIGN, NAMEPLATE: A sign which identifies the name and address of a homeowner.

SIGN, POLE: A sign which is supported wholly by a pole or poles and designed so as to permit pedestrian or vehicular traffic thereunder.

SIGN, POLITICAL: A sign which announces the candidacy of a person, or slate of persons running for elective office, a political party, or issue or state of issues.

SIGN, REAL ESTATE: Any sign which advertises or announces the sale, rental or lease of the premises upon which lot the sign is located.

SIGN STRUCTURE: Any structure which supports, has supported or is capable of supporting a sign, including decorative cover.

SIGN, SUBDIVISION: A sign, masonry wall, landscaping, other similar materials, or any combination thereof. that form a display for subdivision, neighborhood or tract identification; provided, that the legend of such sign or display shall consist only of the subdivision, neighborhood or tract name.

SIGN, TEMPORARY: A sign of any type to announce special events or sales, to announce the sale, lease or rental of property, and designed for use for a limited period of time.

SIGN, WALL OR PANEL: A sign integral with the exterior face of an exterior wall of a building, or attached to the wall or parallel with the wall and projecting not more than twelve inches (12") therefrom.

STANDARD: A test, measure, model or example of quantity, extent or



quality.

**STORY:** That portion of a building included between the surface of any floor and the surface of the floor next above it; or, if there is no floor above it, then the space between the floor and the ceiling next above it.

**STORY, FIRST:** As applied to the residential districts, means the lowest story or the ground story of any building, the floor of which is less than four feet (4') below the average contact ground level at the exterior walls of the building.

**STORY, HALF:** As applied to the residential districts, means a partial story under a gable, hop or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are less than four feet (4') above the floor of such story.

**STREET (PUBLIC):** A public road for purposes of vehicular travel, including the entire area within the rights of way. The term includes, but is not limited to, avenue, alley, boulevard, drive, highway, road and freeway. Streets shall be classified and further defined as follows:

A. **Collector Street:** A street supplementary to and connecting the major street system to local streets.

B. **Local Street:** A street primarily for access to abutting residential properties and to serve local needs.

1. **Cul-De-Sac:** A street, one end of which connects with another street and the other end of which is a dead end which allows space for turning of vehicles.

2. **Marginal Access Street:** A local street providing access to lots which abut or are adjacent to a limited access highway or major street.

C. **Major Arterial Street:** A public street which is primarily for moving fast or heavy traffic between large or intensively developed districts.

D. **Right Of Way:** All of the land included within an area which is dedicated, reserved by deed or granted by easement for street purposes.

1. **Easement:** The right of a person to use common land or private land owned by another for a specific purpose.

2. Pedestrian way: A public or private right of way solely for pedestrian circulation.

3. Roadway: That portion of a right of way available for vehicular travel, including parking lanes.

4. Tree Line: That portion of a right of way lying between the exterior line of the roadway and the outside right of way line.

E. Street Line: The street right of way line.

STREET (PRIVATE): A street owned and maintained by a private entity, usually by an HOA.

STRUCTURAL ALTERATION: Any change in the structural members of a building, such as walls, columns, beams or girders.

STRUCTURE: That which is constructed on or under the ground or attached or connected thereto, including, but not limited to: buildings, barriers, bridges, bulkheads, chimneys, fences, garages, outdoor seating facilities, parking areas, platforms, pools, poles, streets, tanks, tents, towers, sheds, signs, walls and walks; and excluding trailers and other vehicles, whether on wheels or other supports.

SWIMMING POOL: A permanent, open tank or other structure not located within a completely enclosed building designed so as to contain at least three feet (3') of water at any point, including the lounging and spectator areas and any accessory buildings, structures or equipment.

SWIMMING POOL, CLUB: A pool operated by a private club or a neighborhood association incorporated as a nonprofit organization to maintain and operate it for the exclusive use of a limited number of members and their guests.

SWIMMING POOL, PRIVATE: A pool maintained for the sole use of a household and guests without charge for admission and located as an accessory use to a dwelling.

TEMPORARY BUILDING OR USE: A structure or use permitted by the zoning enforcement officer to exist during periods of construction of the new building.

TRAILER, CONSTRUCTION: A large trailer which is used for the storage and conveyance of tools, machinery or equipment on, to or from a construction site, and which may be left on the site for the duration

of construction as provided by these regulations.

TRAILER OR MOBILE HOME: Any vehicle or portable structure constructed in such a manner as to permit occupancy thereof as sleeping quarters; or the conduct of any business, trade or occupation; or use as a selling or advising device; or use for storage or conveyance for tools, equipment or machinery; and so designed that it is or may be mounted on wheels and used as a conveyance on highways and streets, propelled or drawn by other motor power.

TRAILER, TENT: A trailer which is designed as and may be easily and quickly converted into a tent or canopy structure for recreational dwelling purposes.

TRAILER, TRAVEL: A rigid walled trailer designed, constructed or used as temporary dwelling quarters for one or more persons. Such travel trailers may contain sleeping berths, kitchen and sanitary facilities.

TRAILER, UTILITY: A small trailer used primarily for transportation of commercial or personal goods and/or wares.

USE: The activity conducted on or in a particular parcel of land or structure.

USE, PERMITTED: A use by right which is specifically authorized in a particular zoning district, not including conditional uses.

USE, TEMPORARY: A nonpermanent or intermittent use of land, building or structure which is permitted by these regulations.

VARIANCE: A modification of the literal provisions of these regulations granted when strict enforcement would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted.

VEHICLE: All automobiles, trucks, motorcycles, trailers, truck campers, recreational vehicles, buses and boats.

VEHICLE, COMMERCIAL: Any motor vehicle designed and used for carrying merchandise or freight. Also referred to as a "business vehicle".

VEHICLE, DUAL PURPOSE: Any pickup truck with a slide in camper or a van type vehicle converted for camping use, either of which are used both for camping and incidental transportation.

VEHICLE, MOTORIZED DWELLING: Any vehicle which is designed, constructed or used primarily as a temporary dwelling and which is propelled by means

of its own motor power.

VEHICLE, RECREATIONAL: Any motor vehicle whose principal function is to serve a recreational or entertainment purpose and whose function as transportation is primarily limited to transporting its users to or from the sites of such recreation or entertainment.

WALL: A continuous vertical brick, stone, dirt, or other barrier, not vegetation, that encloses or divides an area of land. Walls must conform to the city fence ordinance.

YARD: That portion of the open area on a lot extending from a building to the nearest lot line.

YARD, FRONT: An open space extending the full width of the lot between a building and the front lot line, unoccupied and unobstructed from the ground upward except as hereinafter specified.

YARD, REAR: An open space extending the full width of the lot between a building and rear lot line, unoccupied and unobstructed from the ground upward, except as hereinafter specified.

YARD, REQUIRED: The minimum yard required between a lot line and building line or the line of any parking area or any other use requiring a yard in order to comply with the zoning regulations of the district in which the zoning lot is located.

YARD, SIDE: An open space extending from the front yard to the rear yard between a building and the nearest side lot line, unoccupied and unobstructed from the ground upward except as hereinafter specified.

ZONING DISTRICT: A portion of the incorporated area of the city of Woodland Hills for which certain uniform regulations governing the use, height, area and intensity of use of buildings and land and open spaces are herein established.

ZONING ENFORCEMENT OFFICER: The person authorized by the city to issue building permits, review all proposed site plans, proposed new construction, renovation or additions to assure compliance with all provisions of this title and map. The zoning enforcement officer and building inspector may be the same person.

ZONING MAP: The official zoning district map of the city, together with all amendments subsequently adopted.

ZONING REGULATIONS: The zoning ordinance in its entirety and accompanying the official zoning district map and any subsequent

amendments thereto. (Ord. 1993-05, 6-6-1993; amd. Ord. 2004-05, 5-26-2004) !DEFEND!

## CHAPTER 3

### ENFORCEMENT

#### SECTION:

10-3-1: Enforcement Authority

10-3-2: Penalty

#### 10-3-1: ENFORCEMENT AUTHORITY:

In any case where any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or where any building, structure or land is used in violation of this title, the zoning enforcement officer and/or building inspector or city council, in addition to other remedies, shall institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent occupancy of such building, structure or land, or to prevent any illegal act, conduct of business or use in or about such premises. (Ord. 1993-05, 6-6-1993)

#### 10-3-2: PENALTY:

It is a class 3C misdemeanor for any person to violate any of the provisions of this title, or to fail to observe and obey any of the requirements and restrictions hereof. It shall be the duty of the zoning enforcement officer and/or building inspector or city council strictly to enforce all provisions of this title. An owner, tenant, general agent, architect, building contractor or any other person who commits, takes part in or assists in any violation of this title, or who maintains any building or land in or on which any violations of this title exists, is guilty of a class 3C misdemeanor. Violators may be subject to penalty as provided in section 1-4-1 of this code. Each day that a violation is permitted to exist constitutes a separate offense. (Ord. 1993-05, 6-6-1993)

In accordance with Utah Code Annotated section 10-9a-803, suggest omission of ~~strikeout~~ text and inclusion of underlined. Utah misdemeanors are classified as class B or class C. Agree?

Response: Yes   X  , No       , or change as follows:

#### CHAPTER 4

#### ADMINISTRATIVE PROCEDURES

#### SECTION:

- 10-4-1: Intent
- 10-4-2: General Procedures
- 10-4-3: Building Permit
- 10-4-4: Withholding Permits
- 10-4-5: Required Drawings and Information
- 10-4-6: Applications For Permits
- 10-4-7: Certificate Of Occupancy
- 10-4-8: Enforcement
- 10-4-9: Development Approval Process

#### 10-4-1: INTENT:

A. Administrative procedures for administering, interpreting and enforcing this title are herein established in order to achieve, among others, the following purposes:

1. Provide for the review of an application for a building permit;

2. Provide for the inclusion of necessary facilities, services and other uncommon uses through conditional use permits;

3. Provide the inclusion of uses which are uncommon but which have characteristics similar to permitted main uses;

4. Provide that no work shall be started on the relocation, construction, reconstruction or structural alteration of a building until the proposed building or use is found to comply with all the provisions of this title;

5. Assure that in the construction of new buildings, alterations or change of use are complete, and all required provisions have been complied with by requiring a certificate before occupancy;

6. Provide for the enforcement of this code ~~this code~~ through measures where there is noncompliance, to keep records of actions in regards to the enforcement of this title; and

For consistency, suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes \_\_ **X** \_\_\_\_, No \_\_\_\_\_, or change as follows:

7. Provide supplementary administrative procedures in conformity with the objectives of the general plan and this title.

B. In administering this title, the provisions shall be regarded as establishing minimum requirements and shall be used specifically to further the underlying purposes, objectives and intent set forth in ~~the preamble to each chapter~~ this title.

Since the chapters and articles in this title do not necessarily contain a "preamble", suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes \_ **X** \_\_\_\_, No \_\_\_\_\_, or change as follows:

C. The relationship of this title to other laws, rules and regulations

and the relationship if two (2) or more specific provisions of this title apply to the same subject are set forth in sections 10-1-4 and 10-1-5 of this title. (Ord. 1993-05, 6-6-1993)

10-4-2: GENERAL PROCEDURES:

A. Administration: The administration of this title is vested in the following officials, commissions and boards of the city:

1. City council;
2. Planning commission;
3. Board of adjustment;
4. City engineer; and
5. Building inspector.

Should the zoning enforcement officer be added to the above list?

Response: \_\_\_\_ **X** \_\_\_\_ Yes; \_\_\_\_ No

B. Compliance: Compliance with the provisions of this title shall be obtained by:

1. Applying for and the issuance of a building permit, including the following, if applicable:
  - a. Site plan review application;
  - b. Approval for PUD application for a conditional use permit;
  - c. Application for determination of similar use; and
  - d. Appeal for an interpretation or a request for a variance.
2. Application for a certificate of occupancy issued upon completion of the building or land improvement.

C. Enforcement: Enforcement of the provisions of this title shall be



obtained by inspection and order for removal of violations. Failure to comply with such order shall constitute an offense which may be followed with civil action. (Ord. 1993-05, 6-6-1993)

#### 10-4-3: BUILDING PERMIT:

Excavations for buildings or site improvements shall not be started, or buildings or structures, or parts thereof, shall not be erected, altered or moved, until a building permit has been applied for and issued by the building inspector. If the building permit is for new-home construction, a permit will not be issued unless the required water shares have been deeded to the city.

A. Approval Of Site Plans: Whenever a site plan has been submitted by the developer/builder as required by this title, the preliminary plan and final plan for recording of the project area shall have been approved by the planning commission and city council, before a building permit may be issued by the building inspector.

B. Compliance To Zoning Regulations: Permits for the construction of a building or improvements or change in use may be issued by the zoning enforcement officer or other city-approved official, only if the work described in an application clearly complies with all provisions of this title and other ordinances of the city. If the proposed building or use does not clearly comply, the **zoning enforcement officer shall not have the power to grant variances or make exceptions unless specifically so empowered.**

It appears the zoning enforcement officer may not be the proper authority, at least with regard to variances, which are granted by the board of adjustment according to subsection 10-6-3B and section 10-6-6 of this title. We have not located any specific legislation regarding exceptions. Normally we see exceptions under the jurisdiction of the municipality's appeal authority. Please advise.

Response: **The bold portion should say: “zoning enforcement officer shall not have the power to grant variances or make exceptions unless approved by the planning commission and city council.”**

C. Conditional Use Permit: Whenever a determination for a conditional use is required, a building permit for the building or use requiring a conditional use permit shall not be issued until such permit has been applied for and approved by the planning commission and city council.

D. Determination Of Similar Use: Whenever a determination for a similar use is required, a building permit for the building or use shall not be issued until the inclusion of such use as a permitted use has been approved and recommended by the planning commission and confirmed by the city council and in accordance with section 10-11-18 of this title.

Suggest inclusion of underlined. Agree?

Response: Yes \_ **X** \_\_\_\_, No \_\_\_\_, or change as follows:

#### 10-4-4: WITHHOLDING PERMITS:

A. Amendment Pending: No building permit shall be issued during the period in which an amendment which would affect the building or use applied for has been recommended by the planning commission or introduced by the city council. However, an application for a permit or certificate shall not be withheld for more than six (6) months after the application was officially submitted.

B. Nonconforming Lot: No building permit shall be issued for a one-family building unless the residential lot shall abut upon a dedicated street; the utilities, pavement and all other required improvements have been constructed, or their construction guaranteed; the lot shall be located in a duly recorded subdivision or approved by the planning commission and no plat required, or resubdivided in accordance with the provisions of section 10-11-4 of this title so as to conform with the requirements of this title. (Ord. 1993-05, 6-6-1993)

#### 10-4-5: REQUIRED DRAWINGS AND INFORMATION:

In addition to drawings required by the provisions of the building code, application for a building permit shall be accompanied by:

A. A plat showing dimensions of the lot to be developed, lot number, topographic data and evidence that the lot has been surveyed and certified by a registered surveyor or engineer.

B. A site plan drawn to scale showing the location of proposed and existing buildings, driveway and parking areas, and proposed finish

grades; also the location and use of buildings on adjoining lots within distances specified in other sections of this title. For residential developments, the size and location of a garage shall be shown.

C. Such other drawings and information as may be required by the provisions of chapter 10, article A of this title for planned development areas. (Ord. 1993-05, 6-6-1993)

D. All other information required in the building permit checklist.

#### 10-4-6: APPLICATIONS FOR PERMITS:

A. Application: Application for building permits and accompanying drawings shall be submitted to the zoning enforcement officer or other designee. After processing the same, as to general conformance to the building code, the applicant shall submit to the planning commission those applications which require its approval, and to the board of adjustment if the application involves any interpretation required by it.

B. Approval: The **zoning enforcement officer or other designated official**, having received reports of approval from the city council, planning commission and board of adjustment, as may be applicable, and finding that drawings, specifications and all documents comply with this title and other relevant codes of the city, **may issue, upon payment of required fees, a building permit.**

Subsection 9-1-1B and prior sections in this chapter indicate building permits are issued by the building official or building inspector. If a change to this provision is necessary, please advise.

Response: **Please change provision to match previous sections of this code.**

C. Disapproval: If the city council, planning commission or board of adjustment do not recommend approval of the application, they shall suggest changes in the drawings as may be necessary to accomplish the purpose of this title. In such instances, conferences with applicants may be held and the application revised or resubmitted, as may be required. (Ord. 1993-05, 6-6-1993)

Suggest inclusion of underlined. Agree?

Response: Yes \_\_ **X** \_\_\_\_, No \_\_\_\_, or change as follows:

10-4-7: CERTIFICATE OF OCCUPANCY:

The City may issue a building permit upon application, in compliance with all laws, ordinances, rules, and regulations. A fire safety permit, confirming compliance with the Wild Land Interface ordinance is also required. No building permits will be issued until compliance with the Uniform Fire Code to allow access to the construction site by fire apparatus vehicles. Once approval has been granted, a building permit may be obtained.

A Certificate of Occupancy must be obtained from the Building Inspector before the building is occupied. A certificate may only be issued if the building is in conformity with the Building Code, the Zoning ordinance, and all other applicable ordinances; provided however, if the only deficiency is the inability to complete the required hard-surfaced driveway because of inclement weather, a certificate may be issued if a sum equal to 125% of the estimated cost of such driveway, as determined by the Building Inspector, is placed in an escrow account available to the City for the purpose of completing the driveway if the applicant has not completed the driveway within nine months of receipt of the certificate.

A. Application: A certificate of occupancy shall be applied for by the owner or his agent and shall be issued by the building inspector as a condition precedent to the occupancy and/or use of a building and land as follows:

1. Occupancy Of Building Erected Or Altered: A certificate of occupancy shall be required before occupancy of a new building, or before occupancy of an existing building which has been altered, moved, changed in use or increased in off street parking requirements. Such certificate shall only be issued after the erection or alteration of a building, or a component thereof, or after a required accessory use has been provided and found by inspection to be in conformity with the provisions of this title and the building code.

2. Change In Use Of Conforming Building Or Land: A certificate of occupancy shall be required before occupancy of a conforming building or land where the use has been changed, provided the use is different than the prior use, and shall be issued, when found by inspection, to be in conformity with provisions of this title.

3. Change In Use Of Nonconforming Building Or Land: A certificate of occupancy shall be required whenever a nonconforming building or land is changed, and shall not be issued until the planning commission has approved the change in accordance with the provisions of chapter 14 of this title.

B. Record Of Existing Building And Land Use: Upon application by the owner, or his agent, the building inspector shall inspect a building or tract of land existing on the effective date hereof and shall issue a certificate of occupancy therefor, certifying:

1. The present use of the building or land.
2. If such use conforms to all the provisions of this title.
3. If it is a lawfully existing nonconforming use.

C. Application For Certificate:

1. Applications for a certificate of occupancy may be submitted separately or may accompany an application for a building permit. Accurate information shall be furnished by the owner or his agent, as to size and location of the lot, buildings or structures occupying the lot, the dimensions of all yards and open spaces, the use of land or building, and all such information as may be included on a form to be furnished by the city.

2. A record of all applications and certificates issued shall be kept on file in the office of the city ~~clerk~~ recorder and copies shall be furnished, upon request, to any person having a proprietary or tenancy interest in the building or land affected. (Ord. 1993-05, 6-6-1993)

#### 10-4-8: ENFORCEMENT:

The duty of administering and enforcing the provisions of this title is hereby conferred upon the zoning enforcement officer. The zoning enforcement officer may promulgate rules and regulations as he may determine necessary to supplement the administration of this title. After approval by the city council, such rules of the zoning enforcement officer shall have the same force and effect as ~~the~~ the other provisions of this title.

Suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes ☒ ~~X~~ ☐, No ☐, or change as follows:

A. Duties: It shall be the duty of the zoning enforcement officer to enforce this title. The zoning enforcement officer shall receive applications required by this title, **issue permits and furnish the required certificates**. In addition, the zoning enforcement officer shall have the following responsibilities:

As commented above, the building inspector/official issues building permits and certificates of occupancy. Please advise.

Response: **Please change provision to match previous sections of this code.**

1. Examine premises for which permits have been issued and shall make necessary inspections to see that the provisions of law are complied with.

2. Enforce all laws relating to the construction, alteration, repair, removal, demolition, equipment, use and occupancy, and location of buildings and structures, except as may be otherwise provided for.

Suggest inclusion of underlined. Agree?

Response: Yes ☐ **X**☒, No ☐, or change as follows:

3. When requested by the city council, or when the interests of the city so require, make investigations in connection with matters referred to in this title and render written reports on the same. For the purpose of enforcing compliance with law, the zoning enforcement officer shall issue such notices or such orders as may be necessary.

B. Inspections: Inspections shall be made by the zoning enforcement officer or the building inspector, or other designated person.

C. Rules: The zoning enforcement officer may adopt rules consistent with this title for carrying its provisions into effect, subject to concurrence by the city council.

D. Records: The zoning enforcement officer shall keep careful and comprehensive records of applications, of permits issued, of certificates issued, of inspections made, of reports rendered and of notices or orders issued. The zoning enforcement officer shall retain on file copies of all papers in connection with building work so long as any part of the building or structure to which they relate may be in existence. All such records shall be open to public inspection, at reasonable hours, but shall not be removed from the office of the city clerk ~~clerk~~ recorder.

E. Cooperation Of Other Officials: The zoning enforcement officer may request and shall receive, so far as may be necessary in the discharge of duties, the assistance of the city engineer in fixing grades, the **city of Salem police department** and/or the county sheriff's department in enforcing orders, and the city attorney in the prosecution of violations, and assistance of other city officials. (Ord. 1993-05, 6-6-1993)

Is the above reference correct?

Response: Yes, leave as is **X** , or change as follows:

#### 10-4-9: DEVELOPMENT APPROVAL PROCESSES:

A. Site plan review (preliminary or final): Refer to the Building Permit Application and Site Plan Checklist.

B. Conditional use permits:

1. Preapplication reviews with planning commission;
2. Submit application to zoning enforcement officer;
3. Planning commission review, public hearing, review and final recommend;
4. City council public hearing, review and final action.

C. Zoning ordinance amendments (including rezoning):

1. Preapplication review with zoning enforcement officer and planning commission (optional);
  2. Submit application form and fee to city ~~clerk~~ recorder;
  3. Application referred to city council for consideration;
  4. City council refers application to planning commission for recommendation;
  5. Council hold public hearing and considers planning commission recommend;
  6. Final action.
- D. Zoning variances (as defined by ordinance):
1. Submit application to board of adjustment;
  2. Board of adjustment meets within thirty (30) days to hear appeal;
  3. Board of adjustment hears appeal, final action;
  4. Decision is effective on date of final action. (Ord. 1993-05, 6-6-1993)

## CHAPTER 5

### AMENDING PROCEDURES

The city should refer to Utah Code Annotated sections 10-9a-205 and 10-9a-503, indicating if amendments to this chapter are desired. The statutes provide very specific notice requirements and procedures with regard to amendments to land use ordinances. **The City would prefer not to refer to the UCA sections and instead maintain Chapter 10-5 as is written.**

### SECTION:

10-5-1: District Changes And Ordinance Amendments



- 10-5-2: Procedure For Zone Change
- 10-5-3: Action By Planning Commission
- 10-5-4: Hearing And Action By Council

10-5-1: DISTRICT CHANGES AND ORDINANCE AMENDMENTS:

The city council may, from time to time, on its own motion or on petition, after public hearing as provided by law and after resolution by the planning commission, amend, supplement or change the boundaries or regulations herein. In case the planning commission disapproves the proposed change, such amendment shall not be passed except by the favorable vote of three-fourths ( $\frac{3}{4}$ ) (4 out of 5) of all members of the city council. (Ord. 1993-05, 6-6-1993)

10-5-2: PROCEDURE FOR ZONE CHANGE:

Any petition to change the zone classification of an area of the city shall be filed with council, together with the following:

- A. A description by metes and bounds of the property to be rezoned, approved by the city engineer;
- B. A certificate of a reputable, practicing attorney or a registered surveyor or registered engineer, in Utah County, certifying that the description of the property to be rezoned is a complete, proper and legal description thereof;
- C. A copy of the page or pages of the county auditor's plats showing the general location of the area under consideration with reference to the neighboring territory. The plat shall show at least two hundred feet (200') in each direction beyond the area proposed for rezoning;
- D. A list of the owners of all property in the area, including contiguous properties and property across the street, proposed for rezoning, together with their residence addresses; and
- E. An application and associated fee according to the city fee schedule. (Ord. 1993-05, 6-6-1993)

10-5-3: ACTION BY PLANNING COMMISSION:

The city council shall refer such petition and other documents to the planning commission. The planning commission shall consider the petition for rezoning and shall return the same to the city council with

its recommendations and with its resolution of approval or disapproval. If the planning commission modifies the rezoning applied for, it shall request the city attorney to prepare a proper ordinance and shall return such proposed ordinance and its resolution to the city council. (Ord. 1993-05, 6-6-1993)

#### 10-5-4: HEARING AND ACTION BY COUNCIL:

The city council shall provide reasonable notice of the public hearing and fix the time and place for a public hearing in the matter of the proposed rezoning at least fourteen (14) days before the date of the hearing. The city council may adopt the zoning amendment(s) as proposed, amend the proposal and adopt, or reject the amended proposals; or reject the proposed amendments. All procedures shall be in compliance with Utah Code Annotated section ~~10-9-402~~ 10-9a-503, concerning the Utah land use development and management act. (Ord. 1993-05, 6-6-1993)

**Sterling suggests amendment of the above referenced statute. Agree?**

**Response: ☒ Yes; ☐ No**

## CHAPTER 6

### BOARD OF ADJUSTMENT

**For statute authority, see UCA § 10-9a-701 et seq.**

**The above referenced statutes refers to "appeal authority". Does the city desire to amend ALL references throughout this code of "board of adjustment" to "appeal authority"?**

**Response: ☒ Yes; ☐ No**

SECTION:

- 10-6-1: Applicability Of State Statutes
- 10-6-2: Composition Of Board Of Adjustment
- 10-6-3: Powers And Duties
- 10-6-4: Appeals
- 10-6-5: Routine And Uncontested Matters
- 10-6-6: Variances
- 10-6-7: District Court Review Of Board Decisions

10-6-1: APPLICABILITY OF STATE STATUTES:

~~Chapter 9 of the Utah laws 1991, ch. 235, part 7 (section 10-9-701 through 10-9-708) as amended as of July 1, 1992~~ Utah Code Annotated section 10-9a-701 et seq. is hereby adopted and made a part of this chapter and the terms of the statute shall prevail, except as may be modified by the terms of this title which are not in direct conflict thereto. (Ord. 1993-05, 6-6-1993)

Suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes ☒ No ☐, or change as follows:

10-6-2: COMPOSITION OF BOARD OF ADJUSTMENT:

A. Established: The board of adjustment, hereinafter referred to in this chapter as the "board", is hereby established pursuant to ~~Utah laws 1991, ch 235 (chapter 9 - municipal land use development and management act) part 7 (section 10-9-701 through 10-9-708)~~ section 10-6-1 of this chapter.

Suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes ☒ No ☐, or change as follows:

B. Membership; Appointment, Term, Vacancy:

1. In order to provide for just and fair treatment in the administration of this title, and to ensure that substantial justice is done, the city hereby appoints a board of adjustment to exercise the powers and duties provided herein.

2. The board shall consist of five (5) members and whatever alternate members the mayor considers appropriate. The mayor shall appoint the members and alternate members with the advice and consent of the city council for a term of five (5) years. All board members shall be residents of the city.

3. The mayor shall appoint members of the first board to terms so that the term of one member expires each year.

4. No more than two (2) alternate members may sit at any meeting of the board at one time. The alternate members may be called by the chairperson or, in the absence of the chairperson, by the vice chairperson or, in the absence of the vice chairperson, **by the secretary**, to sit as a regular member of the board if a regular member is absent from or unable to attend two (2) or more consecutive meetings of the board or absent from or unable to attend board meetings for a period of more than thirty (30) consecutive days. An alternate member may also be called to serve in the place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member.

Is this correct that the secretary could act as an alternate member?

Response: \_\_\_\_\_ Yes; ☒ No (please indicate appropriate amendment)

**Please delete “or, in the absence of the vice chairperson, by the secretary,”**

5. The mayor, with the advice and consent of the city council, shall fill any vacancy. The person appointed shall serve for the unexpired term of the member or alternate member whose office is vacant.

C. Organization; Procedure:

1. The board shall organize and elect a chairperson and adopt rules that comply with any ordinances adopted by the city council.
2. The board shall meet at the call of the chairperson and at any other times that the board determines. The chairperson, or in the absence of the chairperson, the ~~acting~~ vice chairperson, may administer oaths and compel the attendance of witnesses.

For consistency with subsection B4 of this section, suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes ☐ ~~X~~ ☒, No ☐, or change as follows:

3. All meetings of the board shall comply with the requirements of Utah Code Annotated title 52, chapter 4, open and public meetings. The board shall keep 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.
4. The board shall file its record in the office of the board which shall be with the city ~~clerk~~ recorder. All records in the office of the board are public records.
5. The concurring vote of three (3) members of the board is necessary to reverse any order, requirement, decision or determination of any administrative official or agency or to decide in favor of the appellant.
6. Decisions of the board become effective at the meeting in which the decision is made, unless a different time is designated in the board's rules or at the time the decision is made. (Ord. 1993-05, 6-6-1993)

10-6-3: POWERS AND DUTIES:

The board shall hear and decide:

A. Appeals: Appeals from zoning decisions applying this title;

B. Variances: Variances from the terms of this title. (Ord. 1993-05, 6-6-1993)

10-6-4: APPEALS:

A. Authorized: An applicant or any other person or entity adversely affected by a decision administering or interpreting this title may appeal that decision applying this title by alleging that there is error in any order, requirement, decision or determination made by the planning commission, building inspector or zoning enforcement officer, or interpretation of this title.

B. Time Limit For Filing: An applicant, or any other person or entity, may appeal to the board for relief within forty five (45) days of an order, requirement, decision or determination by the planning commission, building inspector or zoning enforcement officer.

C. Burden Of Proof: The person or entity making the appeal has the burden of proving that an error has been made.

D. Permitted Appeals: Only zoning decisions applying this title may be appealed to the board. A person may not appeal, and the board may not consider, any zoning title amendments. Appeals may not be used to waive or modify the terms or requirements of this title.

Suggest inclusion of underlined. Agree?

Response: Yes \_\_\_\_\_, No ☒ X \_\_\_\_\_, or change as follows:

**"A person may not appeal nor may the board consider any zoning title amendments."**

E. Hearing; Notice: The board shall fix a reasonable time for the hearing of the appeal, which time shall be within thirty (30) days of the receipt of the notice of appeal. The board shall give due notice thereof to the persons to whom real property within three hundred feet (300') of the premises in question shall be assessed, and to the occupants of single-family dwellings within three hundred feet (300'); the notice to be delivered personally or by mail addressed to the respective owners at the address given in the last assessment roll. (Ord. 1993-05, 6-6-1993)

10-6-5: ROUTINE AND UNCONTESTED MATTERS:

A. Administrative Officer: With the consent of the city council, the mayor may appoint an administrative officer to decide routine and uncontested matters before the board (excluding nonconforming lots of record). The board shall designate which matters may be decided by the administrative officer; and establish guidelines for the administrative officer to comply with in making decisions.

B. Appeal: Any person affected by a decision of the administrative officer may appeal the decision to the board as provided herein. (Ord. 1993-05, 6-6-1993)

10-6-6: VARIANCES:

A. Authorized: Any person or entity desiring a wavier or modification ~~or~~ of the requirements of this title as applied to a parcel of property owned by that person or entity, leased, or in which is held some other beneficial interest, may apply to the board for a variance from the terms of this title.

Suggest omission of ~~strikeout~~ text and inclusion of underlined. Agree?

Response: Yes    **X**   , No       , or change as follows:

B. Conditions For Consideration: The board may grant a variance only if:

1. Literal enforcement of this title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purposes of this title;
2. There are special circumstances attached to the property that do not generally apply to other properties in the same district;
3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;
4. The variance will not substantially affect the general plan and will

not be contrary to the public interest; and

5. The spirit of this title is observed and substantial justice done.

C. Unreasonable Hardship:

1. In determining whether or not enforcement of this title would cause unreasonable hardship under subsection B1 of this section, the board may not find an unreasonable hardship unless alleged hardship:

a. Is located on or associated with the property for which the variance is sought; and

b. Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.

2. In determining whether or not enforcement of this title would cause unreasonable hardship under subsection B1 of this section, the board may not find an unreasonable hardship if the hardship is self-imposed or economic.

D. Special Circumstances: In determining whether or not there are special circumstances attached to the property under subsection B2 of this section, the board may find that special circumstances 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 district.

E. Burden Of Proof: The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.

F. Variances Run With Land: Variances run with the land and not the property owner.

G. Use Variances Prohibited: The board and any other body may not grant use variances.

H. Additional Requirements Imposed: In granting a variance, the board may impose additional requirements on the applicant that will mitigate any harmful effects on the variance; or serve the purpose of the standard or requirement that is waived or modified. (Ord. 1993-05, 6-6-1993)

10-6-7: DISTRICT COURT REVIEW OF BOARD DECISIONS:

A. Authorized: Any person adversely affected by any decision of the board, may petition the district court for a review of the decision.



B. Limitation: In the petition, the plaintiff may only allege that the board's decision was arbitrary, capricious or illegal.

C. Time Limit For Filing: The petition is barred unless it is filed within thirty (30) days after the board's decision is final.

D. Record Of Proceedings To Reviewing Court: The board shall transmit to the reviewing court the record of its proceedings, including its minutes, findings, orders and, if available, a true and correct transcript of its proceedings. (Ord. 1993-05, 6-6-1993)

## CHAPTER 7

### ESTABLISHMENT OF DISTRICTS

SECTION:

- 10-7-1: Districts Established; Map Boundaries
- 10-7-2: Establishment Of Regulations
- 10-7-3: Map And Notations Incorporated
- 10-7-4: Zoning Vacated Property
- 10-7-5: Zoning Annexed Territories
- 10-7-6: Rules For Uncertain Boundaries
- 10-7-7: Rules For Map And Text Interpretation

10-7-1: DISTRICTS ESTABLISHED; MAP BOUNDARIES:

A. Districts: In order to classify, regulate and restrict the location of residences, recreation and other uses, and the location of buildings designed for specific uses; to regulate and limit the height, number of stories and size of buildings and other structures hereafter erected or altered; to regulate and limit the percentages of lot areas which may be occupied; to establish lines, sizes of yards and other open spaces within and surrounding such buildings; the density of population; the incorporated territory of the city is hereby divided into ~~eight (8)~~ districts. All such regulations are uniform for each class or kind of building or structure or use throughout each class of district. Such districts shall be known as:

Sterling suggests the city not include the number of districts in this subsection. In the event the provisions below are amended, the newly adopted legislation may not address the number of districts change. Agree?

Response: ☒ Yes; ☐ No

Residential:	
Rural residential	RR1-10 acres
Very low density residential	R1-2 acres
Very Low density residential	R1-1 acre
Very low density residential	R1-80
Low density residential	R1-40
Medium density residential	R1-19
Planned unit development	R1-1 PUD

Planned unit development	R1-2 PUD
Mountain Villa Overlay	MVO (applied in R-1-19 only)
Commercial	COM
Public facilities	PF

(Ord. 2006-03, 1-24-2006)

We question the above descriptions. "Very low density" is described as 2 acres, where "low density" is described as 1 acre. Most municipalities provide a very different description for each district (i.e., R-1, single-family residential, R-2, may include multi-family residential, R-3, etc.). In any event, please be sure the above table accurately reflects the city zoning districts.

Response: Yes, leave as is ☒ , or change as follows:

Suggest inclusion of underlined. Agree?

Response: Yes ☒ , No ☐ , or change as follows:

Also, it appears the planned unit development provision should be placed under a subheading of "overlay zoning", and the "mountain villa overlay zone" added. Agree?

i.e., Overlay zoning:

Planned unit development

Mountain villa overlay zone

Response: ☒ Yes; ☐ No

B. Abbreviated Terms: Whenever the abbreviated terms, such as PF, R-1, **R-2**, **RR**, etc., are used in this title, they shall be construed as referring to their corresponding district titles.

These terms do not exist and as such, should be omitted. Agree?

Response: \_\_\_\_\_ Yes; ☒ No

**R-1 should be changed to R1-1**

**R-2 should be changed to R1-2**

**RR should be changed to RR-10**

C. Construction: The above classification of districts shall not be construed as an enumeration of most restrictive to least restrictive districts, except for the specific purposes set forth in this title. All districts are as shown on the officially adopted zoning map, which ~~accompanies this title~~ is on file in the city office and is declared to be a part hereof as if fully described. The map designation and the rules which accompany the zoning map are declared to be a part of this title. No buildings or premises shall be erected or used except in conformity with the rules herein prescribed for the use districts for which such buildings or premises is located and with all other rules contained in this title. (Ord. 1993-05, 6-6-1993)

**Suggest omission of strikeout text and inclusion of underlined. Agree?**

Response: Yes ☒ No \_\_\_\_\_, or change as follows:

#### 10-7-2: ESTABLISHMENT OF REGULATIONS:

Any building or parcel of land may be used; and the use of any building and any parcel of land may be changed or extended; and any existing building may be altered, converted, enlarged, reconstructed, moved or maintained, only for the uses specifically enumerated or referred to as permitted, or required, in the district in which the building or parcel of land is located and for no other use.

A. Permitted Uses: Main buildings and uses enumerated in the various use regulations of this title shall be permitted by right as the principal building, use or activity of a zoning lot only in a district in which it is specifically permitted.

B. Similar, Uncommon Uses: Similar uses or uncommon uses which have characteristics similar to and compatible with those uses enumerated as permitted in a district by right, but since they occur only

infrequently, may not be listed in the permitted use regulations as it is not reasonable to enumerate all such uncommon uses. They may, however, be added to the enumerations of permitted uses by procedures established in section 10-11-18 of this title.

Suggest inclusion of underlined. Agree?

Response: Yes ☐ **X** ☒, No ☐, or change as follows:

C. Conditional Uses: Conditional uses are certain types of main uses so classified in this title because of their uncommon or unique characteristics, large land area requirements or for other reasons, uses which cannot be permitted by right, in specific locations in districts in which they are appropriate and compatible without certain adjustments. The uses which may be considered for conditional approval and the procedures in specific districts are enumerated throughout the sections dealing with use regulations. ~~The procedures are enumerated throughout the sections dealing with use regulations.~~ The procedures and standards for evaluating and approving conditional uses are set forth in chapter 15 of this title.

Suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes ☐ **X** ☒, No ☐, or change as follows:

D. Accessory Buildings, Uses: Accessory buildings and uses as enumerated in the various use regulations of this title shall be permitted as a subordinate building or subordinate use if it is clearly incident to and located on the same zoning lot as the main building or use, and if located in a district in which it is specifically permitted. The use, change, extension, alteration, conversion, enlargement, reconstruction, relocation or maintenance of accessory buildings and land shall be subject to all area, yard, height, off street parking and all other regulations set forth or referred to for the district in which the accessory building or parcel of land is located, and to all other applicable regulations of this title. (See Accessory Buildings and Uses under 10-11-2) (Ord. 1993-05, 6-6-1993)

10-7-3: MAP AND NOTATIONS INCORPORATED:

The boundaries of the districts are shown upon the map which is attached ~~hereto~~ to the ordinance codified herein and made a part of this title, which map is designated as the "Zoning Map". The zoning map and all notations, references and other information shown thereon are a part of this title and have the same force and effect as if the zoning map and all notations, references and other information shown thereon were fully set forth and described herein. (Ord. 1993-05, 6-6-1993)

Suggest omission of ~~strikeout~~ text and inclusion of underlined. Agree?

Response: Yes     **X**    , No       , or change as follows:

10-7-4: ZONING VACATED PROPERTY:

Whenever any street or other public way is vacated by official action of the city council, the zoning of the district adjoining each side of such street or other public way shall be automatically extended to the center of such vacation and all area included in the vacation shall henceforth be subject to all appropriate regulations of the extended districts. (Ord. 1993-05, 6-6-1993)

10-7-5: ZONING ANNEXED TERRITORIES:

Newly annexed lands shall be automatically zoned rural residential (RR) until such time as the city officials have studied and recommended rezoning of said property. (Ord. 1993-05, 6-6-1993)

Referring to section 10-7-1A, should the above reference be RR1-10?

Response: **Yes**

10-7-6: RULES FOR UNCERTAIN BOUNDARIES:

Where uncertainty exists with respect to the boundaries of the various districts as shown on the zoning map ~~accompanying and~~ made a part of this title, the following rules apply:

Suggest omission of ~~strikeout~~ text. Agree?

Response: Yes ☐ ~~X~~ ☒, No ☐, or change as follows:

A. The district boundaries are the centerlines of streets or alleys, unless otherwise shown and where the districts designed on the zoning map are bounded approximately by street or alley centerlines, such centerlines shall be construed to be the boundary of the districts.

B. Where the district boundaries are not otherwise indicated and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines. Where the districts designated on the zoning map are bounded approximately by lot lines, such lot lines shall be construed to be the boundary of the districts, unless the boundaries are otherwise indicated on the zoning map.

C. In unsubdivided property, the district boundary lines on the zoning map shall be determined by dimensions or the use of the scale appearing on the zoning map. (Ord. 1993-05, 6-6-1993)

#### 10-7-7: RULES FOR MAP AND TEXT INTERPRETATION:

A. In interpreting the text, the particular shall control the general.

B. In case of any difference of meaning or implication between the text and any table, the text shall control. (Ord. 1993-05, 6-6-1993)

## CHAPTER 8

### RESIDENTIAL DISTRICTS

#### SECTION:

10-8--1: Intent

10-8--2: Permitted Buildings And Uses

10-8--3: Conditional Uses  
10-8--4: Area, Yard And Height Regulations  
10-8--5: Schedule Of Minimum Area, Yard And Height Regulations  
10-8--6: Off Street Parking  
10-8--7: Signs  
10-8--8: Site Plan Review  
10-8--9: Planned Unit Development  
10-8-10: Lighting

10-8-1: INTENT:

Residential districts and their regulations are established in order to achieve, among others, the following purposes:

A. Regulate the bulk and location of buildings in relation to the land in order to obtain proper light, air, privacy and usable open spaces on each zoning lot appropriate for the district;

Suggest inclusion of underlined. Agree?

Response: Yes    **X**   , No       , or change as follows:

B. Regulate the density and distribution of population in accordance with the objectives of the general plan to avoid congestion and to maintain adequate services;

C. Provide for the proper location of community facilities so as to increase the general convenience, safety and amenities;

D. Provide protection from noxious fumes, odors, dust, excessive noises, invasion of abnormal vehicular traffic and other objectionable influences; and

E. Protect the desirable characteristics of existing residential development, the promotion of stability, the most desirable and beneficial use of the land, and bringing about the eventual conformity with the adopted or officially accepted general plan and other plans of the city. (Ord. 1993-05, 6-6-1993)

10-8-2: PERMITTED BUILDINGS AND USES:

Buildings, structures and uses of land shall be permitted in residential



districts as set forth in the following schedule:

District	Permitted Buildings And Uses
RR1-10 acres rural residential	Animals: The commercial raising of livestock, other farm animals or household pets shall not be permitted. Domestic animals may be maintained upon the premises, but only in compliance with all applicable animal control ordinances.  Home occupation for which a conditional use permit is not required as provided by subsection 10-15-4B of this title.  Single-family dwellings.  Structures, accessory to single-family <u>dwellings</u> .
R1-2 acres very low density	Any permitted building or use in the <u>RR1-10</u> district.
R1-1 acre very low density	Any permitted building or use in the <b>R1-2</b> district.
R1-80 very low density residential	Any permitted building or use in the <u>RR1-10</u> district.
R1-40 low density residential	Any permitted building or use in the <u>RR1-10</u> district.
R1-19 medium density residential	Any permitted building or use in the <u>RR1-10</u> district.

(Ord. 2006-03, 1-24-2006)

Suggest inclusion of underlined. Agree?

Response: Yes **X**, No       , or change as follows:

**ALSO - Change R1-2 to say RR1-10**

**ALSO – ADD THE FOLLOWING TEXT TO SECTION 10-8-2:**

*Permitted uses in the RR, R-1 and R-2 zones shall not include any of the following:*

- 1. Sexually oriented businesses or enterprises of any kind or nature.*
- 2. Commercial recycling collection or storing of recycled or recyclable material.*
- 3. Hotels, motels or other transient housing.*
- 4. Riding stables or other animal boarding facilities or activities.*
- 5. Animal slaughtering or animal products processing.*
- 6. Use or storage of hazardous materials, including without limitation explosives, chemicals and flammables, in quantities greater than used for normal residential activities associated with use of the specific residence.*

7. *Commercial repair of large or small engines.*
8. *Commercial motor vehicle rental, sales or repair.*
9. *Food service businesses or establishments.*
10. *Club houses, including fraternity or sorority houses.*
11. *Mechanical amusements, such as carnival rides.*
12. *Sale or distribution of fuel such as gasoline, heating oil, propane or coal.*
13. *Excavation or mining of earth, sand or gravel.*

10-8-3: CONDITIONAL USES:

Buildings, structures and uses of land shall be allowed in residential districts as set forth in the following schedule, but only upon obtaining a conditional use permit in accordance with the requirements of chapter 15 of this title:

District	Conditional <u>Buildings And</u> Uses
RR1-10 acres rural residential	<p>Guest facilities (1 per residential lot) not operated for commercial purposes, provided there is a residence on the lot.</p> <p>Home occupations, except those for which a conditional use permit is not required by subsection 10-15-4B of this title.</p> <p>Parking and garage facilities.</p> <p>Private recreation uses (such as golf courses, cross country skiing, snowmobiling and equestrian facilities, when included as part of a planned unit development project) and including related accessory commercial uses.</p> <p>Public works facilities.</p> <p>Satellite dish antenna having any dimension greater than 5 feet.</p> <p>Temporary buildings and enclosures.</p>
R1-2 acres very low density	Any conditional <u>building or</u> use in the <u>RR1-10</u> district.
R1-1 acre very low density	Any conditional <u>building or</u> use in the <u>RR1-10</u> district.
R1-80 very low density residential	Any conditional <u>building or</u> use in the <u>RR1-10</u> district.
R1-40 low density residential	Any conditional <u>building or</u> use in the

	RR <u>1-10</u> district.
R1-19 medium density residential	Any conditional <u>building or</u> use in the RR <u>1-10</u> district.

(Ord. 2006-03, 1-24-2006)

Suggest inclusion of underlined. Agree?

Response: Yes **X**, No       , or change as follows:

#### 10-8-4: AREA, YARD AND HEIGHT REGULATIONS:

Land and buildings shall be used only in accordance with the lot area regulations; and buildings shall be erected, altered, moved and maintained only in accordance with the areas, yard and building height regulations set forth in the following section:

Suggest omission of ~~strikeout~~ text. Agree?

Response: Yes **X**, No       , or change as follows:

A. Lot Area: The area of a lot shall be not less than the area set forth in the schedule in section 10-8-5 of this chapter.

B. Lot Width: The width of a lot shall be not less than the width required for the type of dwelling or other building permitted in the district in which the lot is located as set forth in section 10-8-5 of this chapter, or as modified in other sections of this title. Each one-family dwelling developed on a single lot shall abut upon a dedicated street for the required lot frontage; except on curved streets, the width of the front line may be less, provided the lot width at the building line meets the required lot width of the particular district.

C. Lot Coverage: The percent of lot covered by buildings, as set forth in the schedule in section 10-8-5 of this chapter shall not be exceeded.

D. Front, Side Yards: The front yard depth and the two (2) side yards shall not be less than required in the schedule in section 10-8-5 of this chapter, but can be more.

E. Rear Yard: The rear yard depth of a zoning lot for a main building and accessory buildings shall not be less than required in the schedule in section 10-8-5 of this chapter.

F. Height: The height of a main building permitted on a lot shall not exceed the number of stories as set forth in the schedule in section 10-8-5 of this chapter. (Ord. 1993-05, 6-6-1993)

G. Flag Lots: Flag lots shall not be permitted. All lots must have full required frontage along the roadway.

#### 10-8-5: SCHEDULE OF MINIMUM AREA, YARD AND HEIGHT REGULATIONS:

With regard to the following schedule, please verify Sterling has included this table as provided by ordinance 2006-03 as the table in the ordinance did not fit exactly on the page. Also, the last column has been eliminated as it duplicated the 8th column relative to "height max. building stories".

**This table as been modified to how the city would like it.**

District	Dwelling Type	Min. Lot Area	Min. Lot Width (Ft.)	Min. Front Setback (ft)	Min. Side Setback (ft)	Min. Rear Setback (ft)	Min Corner Lot Setback Front/Side (ft)	Height Max. Building Storles	Driveway Setback (ft)	Lot Coverage By Bldg. (Max %)
RR1-10	One-family dwelling	10 acres	300	50	40	40	50	2 or 35 ft.	20	10%
R1-2	One-family dwelling	2 acres	200	50	30	30	50	2 or 35 ft.	20	25%
*R1-2 PUD	One-family dwelling	2 acres	200	50	30	30	50	2 or 35 ft.	20	25%
R1-1	One-family dwelling	1 acre	150	50	30	30	50	2 or 35 ft.	20	35%
*R1-1 PUD	One-family dwelling	1 acre	150	50	30	30	50	2 or 35 ft.	20	35%
R1-80	One-family dwelling	80,000 sq. ft.	200	50	30	30	50	2 or 35 ft.	10	25%
R1-40	One-family dwelling	40,000 sq. ft.	150	50	30	30	50	2 or 35 ft.	10	35%
R1-19	One-family dwelling	19,000 sq. ft.	100	30	20/15	30	30	2 or 35 ft.	7.5	25%

District	Dwelling Type	Min. Lot Area	Min. Lot Width (Ft.)	Min. Front Setback (ft)	Min. Side Setback (ft)	Min. Rear Setback (ft)	Min Corner Lot Setback Front/Side (ft)	Height Max. Building Stories	Driveway Setback (ft)	Lot Coverage By Bldg. (Max %)
**Mountain Villa Overlay Zone	One-family dwelling	19,000 sq. ft.	60/65	25	Varies	20	30	2 or 35 ft.	5	50%
COM	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD

(Ord. 2006-03, 1-24-2006)

\*Setback requirements for R1-1 PUD and R1-2 PUD are as shown, unless changed or modified in Section 10-10A governing Planned Unit Development Zones (PUD's).

\*\*Setback requirements for the Mountain Villa Overlay Zone are as shown unless changed or modified in Section 10-10B, governing the Mountain Villa Overlay Zone.

10-8-6: OFF STREET PARKING:

Off street parking requirements for an allowed use shall be determined in accordance with the provisions of chapter 16 of this title. (Ord. 1993-05, 6-6-1993)

10-8-7: SIGNS:

Signs shall be permitted in accordance with the provisions of chapter 13 of this title. (Ord. 1993-05, 6-6-1993)

10-8-8: SITE PLAN REVIEW:

Site plan review requirements shall be in accordance with the provisions of chapter 12 of this title. (Ord. 1993-05, 6-6-1993)

10-8-9: PLANNED UNIT DEVELOPMENT:

The requirements for planned unit development in residential districts shall be in accordance with the provisions of chapter 10, article A of this title. (Ord. 1993-05, 6-6-1993)

10-8-10: LIGHTING:

Any light source which exceeds one thousand two hundred (1,200) lumens (about a 75 watt incandescent light bulb) must have its light source shielded such that:

A. The lighting element itself is not visible outside of the lot it is on.

B. The lighting element is not shining directly on any vertical surfaces (such as a wall).

(Note: This says that a resident must shield their lights if they are brighter than 75 watts. The city restricts all lighting greater than 75 watts.)

1,800 lumens would be a 100 watt bulb.

1,200 lumens would be a 75 watt bulb.

850 lumens would be a 60 watt bulb.

520 lumens would be a 40 watt bulb.

(Ord. 1993-05, 6-6-1993)

Does the city desire to include the above "note" and the description of lumens? This section does provide "Any light source which exceeds 1,200 lumens...), which coincides with the "note".

Response: \_ **X** \_\_\_\_ Yes; \_\_\_\_ No

**Also add "...100 Watt incandescent bulb, or equivalent." After each row.**

## CHAPTER 9

### PUBLIC FACILITIES DISTRICT

#### SECTION:

- 10-9-1: Intent
- 10-9-2: Permitted Buildings And Uses
- 10-9-3: Area, Yard And Height Regulations
- 10-9-4: Lighting
- 10-9-5: Site Plan Review
- 10-9-6: Off Street Parking
- 10-9-7: Signs

#### 10-9-1: INTENT:

"Public facilities", as used throughout this title, means facilities classified as main and accessory buildings and uses in section 10-9-2 of this chapter. Public facilities districts and regulations are established in order to achieve, among other things, the following purposes:

- A. Provide a proper zoning classification for governmental, civic, welfare and recreational facilities in proper locations and extent so as to promote the general safety, convenience, comfort and welfare;
- B. Protect such public and semipublic facilities and institutions from the encroachment of certain other uses, and to make such uses compatible with adjoining residential uses; and
- C. Provide an environment for the proper functioning of public facilities in relation to the general plan and other plans for community facilities. (Ord. 1993-05, 6-16-1993)

#### 10-9-2: PERMITTED BUILDINGS AND USES:

Buildings and land shall be used and buildings shall be designed, erected, altered, moved or maintained in a public facilities district only for uses set forth as follows:

Accessory buildings and uses: As defined in chapter 2 of this title and section 10-11-2 of this title, including public parking area, storage garage, and maintenance and heating facility.



Civic: Churches, libraries, places for public assembly, memorials, monuments, cemeteries.

Educational: Primary and secondary public, private or parochial schools.

Governmental: Municipal uses for administrative functions and uses by the general public.

Public utility facilities: Public sewage treatment, water treatment and similar uses.

Recreational: Parks, recreation fields and playgrounds, pools and public gardens and golf courses. (Ord. 1993-05, 6-16-1993)

#### 10-9-3: AREA, YARD AND HEIGHT REGULATIONS:

A. Area: The area or parcel of land for a permitted public facility shall be not less than required to provide a site adequate for the main and accessory buildings, off street parking and other accessory uses, yards and open spaces to accommodate the facility and maintain the character of the neighborhood, provided, however, churches shall have a minimum area of three (3) acres. The area or parcel of land for a permitted public facility shall be approved by the planning commission.

#### B. Yard Regulations:

1. The front yard setback shall be not less than the required front yard setback for any adjacent district.

2. The side and rear yards for each public facility building shall be not less than the criteria set forth in the following schedule when adjacent to any residential district:

Use	Side And Rear Yard (Feet)
Civic: Nonassembly buildings	50
Assembly buildings	75
Educational: Public, private and parochial schools	75
Recreational: Buildings	75

For clarification with regard to the above table, are the side and rear yards in each

instance the same?

Response: Yes, leave as is \_ **X** \_\_\_\_\_ , or change as follows:

3. Driveways and parking areas serving the public facility may be located within the side or rear yard set forth in the above schedule, but driveways shall be located not less than ten feet (10') and parking areas not less than the side yard setback of the adjacent district, and play areas shall not be located closer than fifty feet (50') from any adjacent boundary line of a residential district.

C. Height Regulations: Chimneys, spires, cupolas, towers, flag poles, water tanks, monuments and other mechanical appurtenances located upon or constituted as an integral part of a main building, shall not exceed a height of **one fifty feet (50')** above finished grade, except for church spires which may rise to seventy feet (70') above finished grade. (Ord. 1993-05, 6-16-1993; amd. Ord. 2006-03, 1-24-2006) .

It appears the above bolded provision is misstated? Should the reference of "one" be omitted?

Response: **Yes**

#### 10-9-4: LIGHTING:

Floodlighting or other lighting of play fields, buildings, bulletin boards and parking areas shall be located and designed so as to shield the light source from adjoining residences; and except for general lighting, shall be extinguished between the hours of eleven o'clock (11:00) P.M. and seven o'clock (7:00) A.M., unless a longer lighting period is approved by the planning commission. (Ord. 1993-05, 6-16-1993)

#### 10-9-5: SITE PLAN REVIEW:

All uses and buildings in the public facilities district shall be subject to the site plan review requirements of chapter 12 of this title. (Ord. 1993-05, 6-16-1993)

10-9-6: OFF STREET PARKING:

Off street parking requirements for an allowed use shall be determined in accordance with the provisions of chapter 16 of this title. (Ord. 1993-05, 6-16-1993)

Suggest inclusion of underlined. Agree?

Response: Yes \_\_ **X** \_\_, No \_\_\_\_, or change as follows:

10-9-7: SIGNS:

Signs shall be permitted in accordance with the provisions of chapter 13 of this title. (Ord. 1993-05, 6-16-1993)

## CHAPTER 10

### OVERLAY ZONING

#### ARTICLE A. PLANNED UNIT DEVELOPMENT

##### SECTION:

- 10-10A-1: Purpose
- 10-10A-2: Objectives
- 10-10A-3: Application Procedure
- 10-10A-4: Residential Planned Unit Development
- 10-10A-5: Time Limits For PUD Approval

##### 10-10A-1: PURPOSE:

A. Traditional zoning, with its rigid separation of uses into different zones under very restricted placement controls, has now been recognized as being inappropriate to many medium and large scale developments. Planned developments, which modify the traditional forms of zoning, permit a developer to secure advantages which can be passed on to the general public by virtue of more desirable economic development.

B. The planned unit development (PUD) standards are a supplementary list of overlay zoning standards which apply to properties simultaneously with one of the other zoning districts established in this title, hereinafter referred to as the underlying zoning district. For properties approved for PUD designation, these PUD standards modify the regulations listed for the underlying zoning district.

C. The PUD standards are provided as a design option, intended to permit flexibility in the regulation of land development to encourage innovation in land use, and variety in design, layout and type of structures constructed; to preserve significant natural features and open space; to promote efficient provision of public services and utilities; to minimize adverse traffic impacts; to provide adequate housing; to encourage development of convenient recreational facilities; and to encourage the use and improvement of existing sites when the uniform regulations contained in other zoning districts alone do not provide adequate protection and safeguards for the site or its surrounding areas.

D. The standards are intended to accommodate development on sites

with significant natural, historical and environmental features as noted in the general plan, on land which exhibits difficult development constraints, and/or to provide the opportunity to mix compatible uses or residential types, and/or allow clustering of residential units to reduce construction costs and to preserve common open space and natural features. The PUD standards shall not be sought primarily to avoid the imposition of standards and requirements of other zoning classifications rather than to achieve the stated purposes herein set forth. (Ord. 1993-05, 6-16-1993)

#### 10-10A-2: OBJECTIVES:

A. Scope: The objectives, principles and standards are intended to guide the applicant in the preparation of the land use and development plan, and they shall be used as the basis for the evaluation of the plan by the planning commission and city council.

B. Objectives: The following objectives shall be considered in reviewing any application for any PUD in order to realize the inherent advantages of coordinated, flexible, comprehensive, long range, planning and development of such planned development:

1. Provide more desirable living environments in the city by preserving the natural character of open fields, stands of trees, drainage courses and similar assets.
2. Encourage, with regard to residential use, the provision of open space and the development of recreational facilities in a generally central location within reasonable distance of all living units.
3. Encourage developers to use a more creative and imaginative approach in the development of residential areas.
4. Continue to require underground utilities which can be more efficiently designed when master planning a larger area.
5. Allow phased construction with the knowledge that subsequent phases will be approved as originally planned and approved by the city.
6. Reserve adequate land areas for schools, parks and other public uses. (Ord. 1993-05, 6-16-1993)

#### 10-10A-3: APPLICATION PROCEDURE:

The following procedure shall be followed when applying for a

residential PUD:

A. Preapplication Conference: Before submitting an application for approval of a PUD, the applicant shall confer in a meeting with the planning commission to obtain information and guidance regarding land development regulations, the general plan and the application process. At the preapplication conference, the applicant shall submit a preliminary sketch plan for the proposed PUD, containing both maps and written statement. All maps shall show enough of the surrounding area to demonstrate the relationship of the PUD to adjoining uses, both existing and proposed.

1. The maps, which are a part of the preliminary sketch plan, may be in general, schematic form and must contain the following:

a. A recent map of the site, reflecting area, size and boundary line dimensions.

b. Existing and proposed land uses and their approximate locations.

c. Existing topographic character of the site.

d. The character, approximate net residential density and expected final population of the proposed PUD.

e. Circulation patterns, including pedestrian walkways and arterial, collector or local streets.

f. Any proposed public use areas, including schools, parks, open space, etc.

g. Existing areas which are unbuildable, such as steep slopes, drainage courses, etc.

2. The written statement to be included, along with the preliminary sketch plan, must contain the following information:

a. An explanation of the character of the PUD, the manner which it is has been planned to take advantage of the PUD regulations, the manner in which it reflects the purpose and objectives of the PUD as stated in this article and its conformance to the general plan.

b. A statement of ownership or option to purchase of all land within the proposed PUD.

c. A general indication of the expected schedule of development.

B. Planning Commission Review: Following the preapplication

conference, the applicant shall submit the preliminary sketch plan, including maps and written statement, in five (5) copies to the planning commission. The planning commission shall review the preliminary sketch plan to determine its conformance with the purpose and objectives of sections 10-10A-1 and 10-10A-2 of this article, and the city general plan.

#### C. Application:

1. Upon completion of the preliminary review process, including the preapplication conference and planning commission review, an application may be submitted to the planning commission. A public hearing shall be held by the planning commission before approval of PUD. Notification of the public hearing shall be published in a newspaper of general circulation in the city and be either mailed or personally delivered to persons to whom real property is assessed within three hundred feet (300') of the boundary of the property on which the PUD is to be located, and to the occupants of all structures within three hundred feet (300') of that property. Notice is to be given in accordance with state law before the application will be considered. The notice is to describe the nature of the PUD, the property on which the PUD will be located, and is to state the place and time of the public hearing and indicate when and where written comments will be received concerning the request. If the planning commission approves the PUD, it may recommend any conditions or modifications it deems necessary.

2. In cases where a preliminary site development plan is submitted with the PUD application and a public hearing held, a second public hearing may be waived by the planning commission for the final site plan for each phase of the development. In cases where the PUD applicant proposes to complete the PUD in one phase, requiring only the submittal of a final site plan, a public hearing shall be held by the planning commission.

3. Such application shall include a final site plan containing the information set forth in chapter 12 of this title. If the PUD is to be built in phases, a preliminary site development plan designating various use areas may be approved. A final detailed site plan shall then be required before the approval of each phase. The following information shall be provided:

a. A development schedule indicating:

(1) Approximate date for commencement of construction.

(2) Stages or phases in which the project will be built and the expected starting and completion dates of each stage.

(3) Size and location of each area of common use for recreation or open space purposes which will be complete at each stage.

b. Agreements, provisions or other covenants which will govern the use, maintenance and continued protection of the PUD and any of its common uses or open space areas.

D. City Council Approval: After receipt of the recommendation from the planning commission, the city council shall review the application, site plan recommendations and shall make its finding as to denial, final approval or approval with modifications. The latter approval with modifications shall not be considered as final approval until the applicant submits, in writing to the city council, acceptance of the modifications. A site plan incorporating the modifications shall be presented to the zoning enforcement officer. No building permits may be issued until final approval has been rendered by the city council on the entire site plan and any associated rezoning matters. When the PUD with its site plan is approved by the city council, the detailed final site plans for each phase of a multi-phase PUD shall be reviewed and must be approved by the planning commission. After final approval, the following conditions shall apply where applicable:

1. Where the provisions of the subdivision regulations for the city shall apply, the applicant shall submit the information and plans as may be required and all other local procedures or regulations pertaining to plat approval.

2. The city council shall cause to have legal documents or contracts prepared which involve the city and are required as a result of the conditions contained in the final approval. All contracts shall be executed and recorded in the office of the county recorder.

3. The zoning enforcement officer shall inspect the development at each stage to ensure reasonable compliance with the conditions of final approval, the final site plan and the approved schedule of improvements. Any changes in the final site plan shall be approved by the planning commission in accordance with chapter 12, Site Plan Review, of this title. (Ord. 1993-05, 6-16-1993)

#### 10-10A-4: RESIDENTIAL PLANNED UNIT DEVELOPMENT:

In an effort to preserve the natural amenities of the city for the benefit of all, the general plan for the city has proposed flexibility in the future development of residential areas. Among the design concepts effective in this preservation effort are cluster types of



single-family subdivisions in which housing units are arranged in groups, with clusters separated from each other by common open space.

A. Purpose: It is the purpose of this section to encourage more imaginative and livable housing environments with the residential districts, as noted, through a planned reduction, or averaging, of the individual lot area requirements for each zone district. Such averaging or reduction of lot area requirements shall only be permitted when a landowner, or group of owners acting jointly, can plan and develop a tract of land as an entity and thereby qualify for regulation of that tract of land as one complex land use unit, rather than an aggregation of individual buildings located on separate, unrelated lots. Under these conditions, approval may be granted for the construction and occupancy of a PUD; providing the standards, procedures and requirements set forth in this article are met.

B. Qualifying Conditions: Any application shall meet the following conditions to qualify for consideration as a residential PUD:

1. The PUD site shall be located within an **R-2 or R-1 district**. Setbacks listed in the schedule found in 10-8-5 for PUD's will govern unless they are changed or modified in this Planned Unit Development Zone section.

According to section 10-7-1 of this title, the city no longer maintains an R-2 district. As such, should this reference be omitted?

Response: \_\_\_\_ Yes; **X** No  
**Please replace R-1 to say R1-1 and R-2 to say R1-2.**

Also, is it correct that a PUD can be located in ANY of the residential districts of the city? It does not appear the minimum site requirements would be met in all residential districts (refer to subsection B2 below).

Response: Yes, leave as is \_\_\_\_\_, or change as follows: Paragraph 2 should read:  
**"The PUD site shall not be less than 25 acres." The rest of the paragraph can be deleted.**

3. The PUD site shall not be less than fifty (50) acres, except for the original plats A and B where the minimum PUD site allowed shall be five (5) acres.

3. Public water and arrangement for county approved wastewater treatment shall be available to serve the PUD site.

4. The overall density requirements of the residential district in which the PUD is located shall be met.

C. Permitted Uses: The following uses of land and structures may be permitted within a residential PUD:

1. Any permitted use within the residential district in which the PUD is located.

2. Clustering of single-family dwellings shall be permitted, provided the density of the total PUD does not exceed the overall density permitted within the residential district in which the PUD is located. **This will be a maximum of one unit per acre in the R-1 district and one unit per two (2) acres in the R-2 district.**

As noted above, amendment to the specified districts may be necessary.

Response:

**Should say: This will be a maximum of one unit per acre in the R1-1 and R1-40 districts and one unit per two (2) acres in the R1-2 and R1-80 districts.**

3. Customary accessory uses, as permitted in districts where located.

D. Development Requirements: As applicable, the following regulations supersede the regulations otherwise provided for in the underlying residential zoning district:

1. Site Acreage Computation: The total site acreage minus roads shall be the basis for computing the total housing units permitted within the PUD overlay district.

2. Multiple Zoning Districts: If the project is located in more than one zoning district, the number of allowable dwelling units must be separately calculated for each zoning district, then combined to determine the project density.

3. Density Bonuses:

- a. An applicant may receive a density bonus not to exceed a total of thirty percent (30%) of the base density of dwelling units otherwise allowed for the **R-2 district** by complying with the policies and procedures set forth below. In addition to the requirements set forth below, any PUD applicant requesting density bonuses in the **R-2 district** shall have a minimum of

fifty (50)

- b. acres. All other applications for PUD approval shall comply with the minimum acreage requirements as set forth in subsection B2 of this section.

As noted above, please specify if amendment to the above referenced district is necessary.

Response:

**Instead of R-2 districts, it should say "R1-2 or R1-80 districts"**

**Please change the minimum for a PUD to be 25 acres instead of 50 acres.**

b. The percentages reflected in subsections D3b(1) through D3b(6) of this section are intended to constitute percentages of the total density bonus available and an applicant must address all categories in order to receive the full density bonus:

(1) Up to forty percent (40%) by providing and dedicating to the city open space, including both active and functional open space, as well as passive or visual open space to promote the purposes and objectives of this article and the general plan of the city. Open spaces which are used primarily for recreational uses may be considered as fulfilling part of the open space requirement. In those instances, dedication to the city of such open space will not be required. Any land designated as open space shall be maintained as open space and may not be separately sold, subdivided or developed and shall not include roads, rights of way, lots or buildings for dwelling purposes. In granting such density bonuses and accepting dedication of open space, the city shall promote the development of a connected, linked system of open space.

(2) Up to thirty percent (30%) by providing and dedicating to the city active, functional, useable open space areas which are reasonably accessible and provide public recreational access as part of a contiguous, connected, linked system throughout the community for uses, including, but not limited to, walking and riding trails or other public recreational facilities.

(3) Up to ten percent (10%) by exercising creativity, imagination and innovation in design layout and design guidelines and architectural standards for structures in order to preserve and enhance the natural character of the community and provide a more desirable living environment.

(4) Up to ten percent (10%) by preserving natural vegetation and land cover in order to stabilize hillsides for drainage purposes, preserve wildlife corridors and habitat and promote the aesthetic value and natural character of the community.

(5) Up to five percent (5%) by promoting effective and efficient transportation patterns, minimizing adverse traffic impacts and providing adequate access for fire protection purposes.

(6) Up to five percent (5%) by promoting clustering and the efficient provision and delivery of public services and utilities.

4. Permitted Minimum Lot Area: Lot sizes within PUDs shall not be varied or reduced in area below the following standards:

a. One-family detached dwelling: One-half ( $1/2$ ) acre (or 21,780 square feet) in the **R-2 and R-1 districts**.

As noted above, please specify if amendment to the above referenced districts is necessary.

Response:

**R-2 to be replaced with R1-2 and R1-80**  
**R-1 to be replaced with R1-1 and R1-40**

5. Permitted Minimum Lot Width: Lot width shall be a minimum of one hundred ten feet (110') in the **R-1 and R-2 districts**.

As noted above, please specify if amendment to the above referenced districts is necessary.

Response:

**R-2 to be replaced with R1-2 and R1-80**  
**R-1 to be replaced with R1-1 and R1-40**

6. Permitted Minimum Yard Requirements: Each lot shall have at least the following minimum yards:

a. Front yard: Fifty feet (50') for **R-1 and R-2 districts**, but

allowing thirty foot (30') setbacks may be allowed if approved by the planning commission at the time of final plat approval based on topography and slope in compliance with the wildland interface ordinance, if necessary to achieve minimum buildable area. The burden of proof shall be on the applicant to demonstrate why unique circumstances are presented in terms of topography and slope in order to achieve minimum buildable areas and subject to the discretion of the planning commission, which shall not be unreasonably withheld. The final plat or some other appropriate document to be recorded with the county recorder's office shall depict any lots approved for thirty foot (30') front yard setbacks.

As noted above, please specify if amendment to the above referenced districts is necessary.

Response:

**R-2 to be replaced with R1-2 and R1-80**

**R-1 to be replaced with R1-1 and R1-40**

b. Side yard: Fifteen feet (15') for **R-1 and R-2 districts**.

As noted above, please specify if amendment to the above referenced districts is necessary.

Response:

**R-2 to be replaced with R1-2 and R1-80**

**R-1 to be replaced with R1-1 and R1-40**

c. Rear yard: Thirty feet (30') for the **R-1 and R-2 districts**.

As noted above, please specify if amendment to the above referenced districts is necessary.

Response:

**R-2 to be replaced with R1-2 and R1-80**

**R-1 to be replaced with R1-1 and R1-40**

d. Perimeter setback: The yard requirements at the exterior boundaries of the project shall not be less than the minimum yards required in the district where located.

7. Minimum Floor Area: The minimum required floor area shall be as follows:

a. Single-family detached dwelling: Each dwelling unit shall have a minimum finished living area of one thousand four hundred (1,400) square feet for a single story dwelling with a minimum of one thousand two hundred (1,200) square feet on the ground floor for units of more than one story; plus a minimum of seven hundred (700) square feet on the second floor.

8. Signs: As provided in chapter 13 of this title.

9. Off Street Parking: Requirements for an allowed use shall be determined from chapter 16 of this title.

10. Maintenance And Utilities: For any areas to be held under common ownership, a document showing the future maintenance provisions shall be submitted to the planning commission. Such provision shall include mandatory membership of all property owners in any association designed for maintenance of the common area. (Ord. 1993-05, 6-16-1993)

#### 10-10A-5: TIME LIMITS FOR PUD APPROVAL:

A. Specified: A planned unit development approved pursuant to this article shall be valid for one year from the date of final approval. If construction has not commenced and proceeded meaningfully toward completion by the end of this one year period, the zoning enforcement officer shall notify the applicant of the expiration of approval for a planned unit development.

B. Phase Construction; Extension: If construction of a phase I has commenced within one year, this shall satisfy the requirement even though the total PUD may be a number of years from completion. One year extensions of PUD approval may be granted by the planning commission for a period of up to three (3) years from the date of the original approval only with a written request from the owner. Upon expiration of special approval for a PUD, the land shall revert to the zoning district from which it was originally rezoned under this title.

C. Extensions: If construction has begun on an approved PUD within one year, but no construction/improvements continues after the beginning of construction, said PUD owner may apply for one year extensions up to three (3) years. After the three (3) year period has elapsed, the PUD shall revert to the zoning district from which it was originally rezoned under this title.

D. New Ownership: If the total PUD or any major part of the PUD (except individual lots) is sold, the new owner shall indicate in writing his willingness to abide by the originally approved final plan. If the new owner does not desire to build according to the approved final plan, a new preliminary plan shall be submitted in accordance with the requirements of Title 11 of this ordinance. (Ord. 1993-05, 6-16-1993)

## CHAPTER 10

### OVERLAY ZONING

#### ARTICLE B. MOUNTAIN VILLA OVERLAY ZONE

##### SECTION:

- 10-10B-1: Title
- 10-10B-2: Purpose
- 10-10B-3: Zone Established; Considerations
- 10-10B-4: Uses
- 10-10B-5: Underlying Zone Development Standards And Regulations
- 10-10B-6: Overlay Zone Development Standards And Regulations
- 10-10B-7: Compliance With Zoning, Subdivision Procedures
- 10-10B-8: Compliance With Overlay Zone
- 10-10B-9: Development Agreement

10-10B-1: TITLE:

The title of this article shall be the MOUNTAIN VILLA OVERLAY ZONE.  
(Ord. 2013-05, 8-27-2013)

Suggest inclusion of underlined. Agree?

Response: Yes \_\_\_ **X** \_\_\_, No \_\_\_\_\_, or change as follows:

10-10B-2: PURPOSE:

The purpose of the mountain villa overlay zone is to promote the public health, safety and welfare by allowing increased land use flexibility through specialized zoning techniques to assure that residents of the community can continue to contribute to the community without having heavy yard care maintenance, to include snow removal, and without ignoring legitimate concerns regarding impacts on surrounding residential areas. (Ord. 2013-05, 8-27-2013)

10-10B-3: ZONE ESTABLISHED; CONSIDERATIONS:

A. To further the purposes stated herein, there is hereby established a mountain villa overlay zone within the city in the R1-19 zone. In considering a request for the zone overlay, the planning commission and city council shall consider the following:

1. The harmony and compliance of the proposed location of the overlay zone with the objectives and requirements of the city general plan and zoning ordinances;
2. Whether or not the application of the overlay zone may be injurious to potential or existing development within the vicinity;
3. The current development or lack of development adjacent to the proposed location and the harmony of the proposed location with the existing uses in the neighborhood;
4. The proposed location is in proximity to the arterial or major collector streets;
5. The mountain villa overlay zone can only be applied within the R1-19 zone;
6. The compatibility of the proposed location of the overlay zone



with the density analysis of the underlying zone and neighboring development;

7. The economic impact of the proposed facility or use on the surrounding area;

8. A demonstrable need for an overlay zone in the area of the proposed location.

B. It shall be the city council's sole discretion to decide if a project should be allowed to use the mountain villa overlay zone within the intent of this article as noted in subsection A of this section. (Ord. 2013-05, 8-27-2013)

#### 10-10B-4: USES:

A. The following uses shall be permitted in the mountain villa overlay zone containing one or a combination of both:

Home occupations shall be permitted through the conditional use permit process.

B. Accessory apartments are not permitted in this overlay zone. (Ord. 2013-05, 8-27-2013)

We are unsure of the meaning of this section. The introductory text indicates "one or a combination of both", although only a home occupation use is permitted. Even though the accessory apartments use followed under the "permitted" provision, we have separated since it is NOT a permitted use.

In any event, the city may desire to clarify this language.

Response:

**-Remove the phrase "containing one or a combination of both" from Part A**

**-Instead of "Home occupations shall be permitted through the conditional use permit process," Change it to say: "Any use under the conditional use process that is approved by the city."**

#### 10-10B-5: UNDERLYING ZONE DEVELOPMENT STANDARDS AND REGULATIONS:

All uses within the overlay zone shall be conducted within buildings that conform to the requirements of the underlying zone, unless specifically specified within the is overlay zone code article. (Ord. 2013-05, 8-27-2013)

Suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes   X  , No       , or change as follows:

#### 10-10B-6: OVERLAY ZONE DEVELOPMENT STANDARDS AND REGULATIONS:

Setbacks listed in the schedule found in 10-8-5 for the Mountain Villa Overlay Zone will govern unless they are changed or modified in this Mountain Villa Overlay Zone section.

The following development standards and regulations shall apply to all developments within the Mountain Villa Overlay Zone:

A. Lot Sizes: Lot sizes within the zone can vary as determined by the developer. At least fifty percent (50%) of the lots within the zone shall comply with the R1-19 zoning and meet the R1-19 zoning requirements as currently set forth in this title. No more than fifty percent (50%) of the individual units within the zone shall be clustered together with lot sizes no smaller than four (4) units per acre (calculated to include roads and common areas) in size, which shall be part of the master planned development (MPD).

B. Minimum Housing Lots: Any MPD within the zone shall consist of at least ten (10) housing lots of clustered housing of which no more than four (4) can be attached together.

C. Lot Types: There shall be two (2) primary lot types within the zone:

1. Larger "estate unit lots", which shall comply with the R1-19 zoning; and

2. Smaller "village unit lots", which shall comply with this section.

D. Dwelling Types: Single or attached dwellings of which no more than four (4) can be attached together.

E. Parking: Parking for the overlay zone will be a minimum of two (2) parking spaces per dwelling inside a garage. Additional parking will be determined by specific review of the planning commission and city council.

Suggest inclusion of underlined. Agree?

Response: Yes ☐ **X** ☒, No ☐, or change as follows:

F. Patio, Garden Areas: An area behind each unit can be included within the private lot area to allow for a private patio area, garden plot, etc. The planning commission must approve the size of this area. Their finding shall recognize the intent of the zone and keep the patio/garden area size to a minimum.

G. Setbacks, Yard Depths And Frontage For Village Unit Building Lot:

Front setback	Minimum of 25 feet to the road right of way.
Front yard depth	Minimum of 25 feet to the road right of way.
Frontage	Lot minimum frontage shall be no less than 65 feet as measured along the right of way. If lots are pie shaped or on a radius, the minimum frontage shall not be less than 60 feet as measured along the front setback line or the front habitable wall, whichever point is furthest from the right of way.
Side setback	20 feet between any 2 unattached homes; dwellings on a radius can be no closer than 14 feet at any point of the vertical structure.  30 feet to a neighboring development.  10 feet to road right of way on corner lots.
Side yard width	10/6 feet (minimum width is no less than 10 feet on one side and no less than 6 feet on the opposite side, maintaining at least 20 feet between 2 separate dwellings in the same overlay zone).
Rear setback	20 feet
Rear yard depth	20 feet
Driveway setback	No driveway shall be less than 5 feet from the closest edge to the lot line.

Building coverage	Buildings cannot cover more than 50 percent of the lot.
Building height/stories	35 feet/2 stories.
Exceptions can be granted to this criteria by the planning commission for nonresidential structures.	

!SETLRM!!SETFNT!!SETTAB!

H. Acreage: Minimum acreage for the mountain villa overlay zone shall be twenty (20) acres.

I. Restrictive Covenants: The developer of a master planned development within the overlay zone shall be required to establish a homeowners' association (HOA) with restrictive covenants to assure that the uses approved for the development will be maintained. In addition, the covenants must also include an option for professional maintenance for the development and snow removal provisions in the winter. Such covenants shall be recorded to run with the land to ensure against conversion to less desirable land uses. The city will not enforce any codes, covenants, or restrictions (CC&R's) of an HOA. Such enforcement will be up to the HOA. If the HOA is without officers, it shall be up to the HOA members to enforce their own CC&R's, if they choose to do so.

J. Architectural Character: The planning commission may request the use of an architectural style, exterior color or material that would be most compatible with the purpose of the underlying zone district, assure greater compatibility with surrounding development and create an aesthetically pleasing visual theme for the project.

K. Landscaping: Landscaping shall be designed for the use and benefit of the residents. Landscaping shall be typical of that of other master plan developments. A landscape plan for all common areas shall be required.

L. Fencing: Fencing can be included around parts of the development, but the planning commission must approve the type and location.

M. Development Amenities: The overlay zone development shall include enhancement amenities that can include: clubhouse, common areas, community center, pocket park, trail or walking path, finish garden area, benches, picnic or pavilion area, upgraded signage and street furniture, ornamental yard pole lighting, entrance monuments and gates (gates cannot be closed across a public street, but can be permanently secured open as an entrance feature). The decision of what amenities to include and their descriptions shall be negotiated between the developer, the planning commission and the city council.

N. Snow Removal: A snow removal plan for the development shall be

submitted and approved at the time of preliminary plat review of the project. (Ord. 2013-05, 8-27-2013)

10-10B-7: COMPLIANCE WITH ZONING, SUBDIVISION PROCEDURES:

All proposed development within the overlay zone shall be reviewed and approved in accordance with the city subdivision and zoning ordinances. (Ord. 2013-05, 8-27-2013)

10-10B-8: COMPLIANCE WITH OVERLAY ZONE:

All proposed development within the overlay zone shall go through the general plan and zone change process to have the property zoned for the mountain villa overlay zone. The planning commission will review the proposed zone change along with the concept plan and send a recommendation to the city council. (Ord. 2013-05, 8-27-2013)

10-10B-9: DEVELOPMENT AGREEMENT:

All developments in a mountain villa overlay zone shall have a development agreement outlining the terms and conditions of the development plan if they include any deviations of city ordinances as agreed to between the city and the developer. (Ord. 2013-05, 8-27-2013)

CHAPTER 11

GENERAL AND SUPPLEMENTARY PROVISIONS

SECTION:

- 10-11--1: Effect Of Zoning
- 10-11--2: Accessory Buildings And Uses
- 10-11--3: Required Area Or Space Maintained
- 10-11--4: Lots Of Record Of Insufficient Area
- 10-11--5: Yards On Corner Lots
- 10-11--6: Yards Of Irregular Lots
- 10-11--7: Projection Into Yards
- 10-11--8: Landscape Features, Fences, Walls And Driveways
- 10-11--9: Storage And Repair Of Vehicles
- 10-11-10: Keeping Of Animals
- 10-11-11: Antennas, Towers And Satellite Dish Antennas
- 10-11-12: Street Access
- 10-11-13: Illegal Dwellings
- 10-11-14: Recreation Vehicle Parking
- 10-11-15: Temporary Buildings And Structures
- 10-11-16: Swimming Pools
- 10-11-17: Garage Or Carport Required
- 10-11-18: Determination Of Similar Uses

10-11-1: EFFECT OF ZONING:

A. For the purpose of this title, except as hereinafter specifically provided otherwise, no lot or land or premises shall hereafter be used, maintained or occupied, and no building or structure, or part thereof, shall be constructed, erected, moved, placed, maintained, reconstructed, used, extended, enlarged or altered, except in conformity with the regulations herein specified for the zoning district in which it is located. These limitations are hereby established as the minimum regulations necessary to promote and protect the general safety and welfare of the community.

B. In case any building or part thereof is used, erected, altered or occupied contrary to the provisions of this title or other city law, such building shall be declared a nuisance and may be required to be vacated, ~~to be~~ torn down, or abated by any legal means, and shall not be used or occupied until it has been brought into conformance.

Suggest omission of strikeout text and inclusion of underlined. Agree?

Response: Yes \_\_\_ **X** \_\_\_, No \_\_\_\_\_, or change as follows:

C. If construction on a building is lawfully begun prior to adoption

of this title, nothing in this title shall be deemed to require any change in the planned or designed use of any such building; provided, that actual construction is being diligently carried on; and further provided, that such building be entirely completed for its planned or designed use within two (2) years from the effective date hereof. (Ord. 1993-05, 6-16-1993)

10-11-2: ACCESSORY BUILDINGS **AND USES:**

We do not find that this section deals with "accessory uses". As such, suggest omission of the above reference. Agree?

Response:  X  Yes;   No  
Please replace section with what's written below.

10-11-2: ACCESSORY BUILDINGS (Out Buildings)

10-11-2A - Accessory Buildings 200 square feet and under

A. Accessory Buildings of 200 square feet or less do not need a building permit. However, a site plan must be provided to and approved by the City. The following requirements apply to Accessory Buildings of 200 square feet or less

B. Each property has yard setbacks including the front, side and rear yards. These setbacks can vary from zone to zone. Accessory Buildings of 200 square feet or less shall abide by the following setback requirements:

**SETBACKS & CONFIGURATIONS**

ZONE	R1-40	R1-80	R1-19	R2-PUD
Front Yard	30	30	30	30
Side Yard	10	10	5	5
Side Yard abutting road	30	30	30	30
Rear Yard	10	10	10	10
Rear Yard abutting roads	20	20	20	20
From Main Residence	20	20	20	20
From other structures	20	20	20	20
Max. Height of Structure	17	17	17	17

C. Require a Site Plan.

1. The site plan may be drawn by hand, orientating it with a north point arrow and include the lot zone.
2. Site plan should show the lot in relation to other adjacent lots which surround the lot in question, to include any road that abuts the lot.
3. Show dimensions of the lot, the footprint of the shed, it's dimensions and where it will be located on the lot relative to any other structures and set backs.

D. Additional Requirements.

1. The site plan must comply with lot and zoning requirements.
2. The site plan must comply with the latest adopted version of the International Building Code.
3. Woodland Hills Fire Safety Ordinance dated June 25, 2005, Title 1, Chapters 3&5 will be followed with regards to each Accessory Building.

10-11-2B Structures over 200 square feet:

A. Accessory Buildings of more than 200 square feet do require a sit plan and building permit. The following requirements apply to Accessory Buildings over 200 square feet.

B. Each property has yard setbacks including the front, side and rear yards. These setbacks can vary from zone to zone. Accessory Buildings of more than 200 square feet shall abide by the following setback requirements:

**SETBACKS & CONFIGURATIONS**

ZONE	R1-40	R1-80	R1-19	R2-PUD
Front Yard	30	30	30	30
Side Yard	10	10	5	5
Side Yard abutting road	30	30	30	30
Rear Yard	10	10	10	10
Rear Yard abutting roads	20	20	20	20
From Main Residence	20	20	20	20
From other structures	20	20	20	20
Max. Height of Structure	17	17	17	17



C. Additional Requirements.

- a. No occupancy of Accessory Building as a dwelling unit.
- b. The Accessory Building cannot be used as an operating business. Applicable to all accessory buildings:

10-11-2C All Accessory Buildings. The following shall apply to every Accessory Building:

A. No detached Accessory Building shall be located closer than twenty (20) feet to any building. Where the Accessory Building is attached to a main building, it shall be subject to and must conform to all Regulations and Ordinances of the City applicable to such main buildings.

B. Accessory Buildings shall not be erected in any required setbacks.

C. No detached Accessory Building in a residential district shall exceed seventeen (17) feet in height. The height of the Accessory Building shall not exceed seventeen (17) feet as measured from the floor of the Accessory Building to any part of the exterior of the roof of the Accessory Building.

D. When an Accessory Building is located on a corner lot, the side set back will be the same as the front set back, i.e. 30 feet or 50 feet.

E. A separate Accessory Building in any residential district shall not be used for commercial purposes or storage for commercial purposes without a conditional use permit.

F. Any electrical service to an accessory building must conform to applicable electrical code and be inspected.

G. "Accessory Buildings" are defined as sheds, barns, garages, gazebos, green houses, and similar buildings which are not attached to the property's residence.

H. No part or portion of this Ordinance shall supersede any more restrictive HOA rules or CCRs.

10-11-3: REQUIRED AREA OR SPACE MAINTAINED:

No lot or lots in common ownership and no yard, court, parking area or other space shall be so divided, altered or reduced as to make such area or dimension less than the minimum required under this title. If already less than the minimum required, said area or dimension shall not be further divided or reduced. (Ord. 1993-05, 6-16-1993)

10-11-4: LOTS OF RECORD OF INSUFFICIENT AREA:

A lot of record which does not comply with the lot or yard regulations of the district in which it is located on the effective date hereof, or any amendment thereto which made it nonconforming, may be used as follows:

A. Occupied: If occupied by a building, such building may be maintained, repaired, altered or enlarged, provided the depth of front yard, total width of side yards and rear yard regulations are met.

Suggest inclusion of underlined. Agree?

Response: Yes   X  , No       , or change as follows:

B. Vacant: If vacant, the lot may be used; provided, that:

1. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this title, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this title. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district in which said lot is located; provided, however, that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which said lot is located. Yard requirement variances may be applied for through the board of adjustment.

2. Accessory buildings or structures, including, but not limited to, porches enclosed by walls, or garages attached to a dwelling unit or other principal building in a substantial manner, such as by a wall or roof, shall be deemed a part of such main building, for the

purpose of determining compliance with the provisions of this title concerning required yards.

3. Single-family lots may be combined to increase lot size even though said lot continues as a nonconforming lot. (Ord. 1993-05, 6-16-1993)

#### 10-11-5: YARDS ON CORNER LOTS:

Corner lots where there are abutting rear yards shall have a side yard setback equal to the front yard setback for the district. In the case of a rear yard abutting a side yard of an adjacent lot, the side yard abutting the street shall not be less than the front yard required for the adjoining lot. (Ord. 2006-03, 1-24-2006)

#### 10-11-6: YARDS OF IRREGULAR LOTS:

The specific yard regulations set forth in this title may be modified by the board of adjustment in accordance with standards established for granting variances where the regulations cannot be complied with reasonably as a result of irregular shape of lot or for topographic reasons. (Ord. 1993-05, 6-16-1993)

#### 10-11-7: PROJECTION INTO YARDS:

A projection is that part or feature of a building which extends or projects outside of the enclosing walls. It is intended that certain features may project into required yards but they shall be regulated so as not to substantially interfere with the reception of sun, light, air and the use of adjacent lots as follows:

A. Architectural Feature: A belt course, balcony, cornice, gutter or chimney may project into a front and side yard for a distance of two feet (2').

B. Entrance Feature: An open platform, landing, steps, terrace or other feature not extending above the first floor level of a building may extend six feet (6') into a front yard and three feet (3') into a side yard.

C. Enclosed Shelters: An enclosed entry or porch shall not project into any required yard area.

D. Unenclosed Shelters: An entrance hood or open but roofed porch may project six feet (6') into a front yard and three feet (3') into a side yard. (Ord. 1993-05, 6-16-1993)

10-11-8: LANDSCAPE FEATURES, FENCES, WALLS AND DRIVEWAYS:

A. Driveways. All driveways shall:

1. be located not closer to any lot line than the minimum distance specified in 10-8-5.
2. be designed and constructed to maintain proper drainage, and
3. have a minimum width of ten (10) feet.

B. Fences and Hedges. Fences and hedges shall comply with the following:

1. Location and Height

(a) Fences such as corrals, pens or kennels, for confinement of animals, shall be located not less than eighty (80) feet from any public road or existing or potential neighboring dwelling and not less than fifteen (15) feet from any property line not abutting a road.

(b) No fence or hedge shall be located within four (4) feet of any fire hydrant or electric transformer.

(c) No fence or hedge shall be placed across any public trail.

(d) No part or feature of a fence or hedge shall exceed six (6) feet in height above the natural grade.

(e) Fences or hedges taller than forty-two (42) inches shall not be located less than thirty (30) feet from a property line abutting a street and not less than five (5) feet from any other property line.

(f) Fences taller than forty-two (42) inches shall be 75% open if they are less than sixty (60) feet from a property line abutting a street. For purposes of this section, 75% openness means that any ten (10) foot section of the fence as viewed from the side shall not obscure more than 25% of the view through the fence.

(g) Fences sixty (60) feet or more from a property line abutting a street do not have an openness requirement.

(h) Fences or hedges forty-two (42) inches or less in height may be placed anywhere on a building lot except as restricted in B.1.(b) and (c).

(i) Notwithstanding other provisions of this section, a forty-two (42) inch fence or hedge is allowed above retaining walls for safety.

(j) Fencing around a small group of trees or a landscape feature not exceeding two hundred (200) square feet is not required to comply with the height or material limitations of this section; however, barbed wire or any similar material is prohibited.

2. Type of Fence

(a) Acceptable fence materials include natural stone, wood,

vinyl, vinyl-coated chain link wire, and wrought iron. Masonry and concrete may be used for fence posts or pillars only. Plain (not vinyl coated) chain link fencing, wire mesh and vinyl mesh may be used for Sport Courts, gardens and animal enclosures. No part of a fence will be constructed of any form of barbed wire, chain link privacy slats or chain link privacy screen with the exception that City property or facilities deemed by the City to require fencing for security may use plain (not vinyl coated) chain link fencing and barbed wire or an equivalent.

(b) Fences shall be black or white or any shade of green, gray or brown.

(c) A fence which crosses any public utility easement or any other easement held by the City shall include a gate across the easement for the purpose of allowing access to the easement for constructing or maintaining any utility line or other facility located in the easement.

### 3. Swimming Pools.

A private swimming pool fence shall be a minimum height of forty-eight (48) inches measured on the outside of the fence. Access gates shall have a self-closing and self-latching device. The release mechanism of the self-latching device must be located not less than forty-eight (48) inches from the grade below the gate. If the release mechanism of the self-latching device is less than fifty-four (54) inches from the bottom of the gate, the release mechanism for the gate shall be at least three (3) inches below the top of the gate on the side facing the pool. The maximum vertical clearance between the ground and the bottom of the fence shall be not more than four (4) inches. All openings in the fence or barrier shall be small enough that a four (4) inch diameter sphere will not pass through. The enclosure shall otherwise be constructed as described in U.S. Consumer Product Safety Commission Publication No. 362.

### 4. Maintenance.

(a) All fences shall be maintained in a good state of repair. Graffiti shall be removed and repairs made within thirty (30) days.

(b) A hedge, fence or any post, brace or part thereof located upon or extending over any land or easement owned or under control of the City shall be subject to removal at the owner's expense upon demand of the City.

### 5. Sport Courts.

For purposes of this ordinance, a sport court is an area for recreational activities that requires a fence to keep balls, etc., from leaving the area. All parts of a sport court, including fences, shall be located within the area of a lot where a building may be constructed as specified in Table 109.05. Fences which are part of

a sport court shall comply with this ordinance except that fences may not be more than 18 feet in height above natural grade. The total enclosed area of a sport court shall not exceed 7,200 square feet. Any portion of a sport court fence higher than six (6) feet must be 75% open.

#### 6. Permit Requirements.

(a) Except as exempted by subparagraph B.6.(c), no fence shall be constructed without a permit from the Planning and Zoning Department

(i) Application to the Planning and Zoning Department for a fence permit shall be made to the City Recorder.

(ii) Each applicant for a fence permit shall pay an application fee to the City in the amount specified by the City fee schedule.

(iii) The application for a fence permit shall include: applicant's name, address and telephone number, name of owner of the land where the fence will be constructed; address of the land where the fence will be constructed; a scale drawing showing the location and height of the fence, all applicable dimensions, location of property lines, location of buildings within eighty (80) feet of the fence, and location of streets; and a description of the material, color and percent of openness of the fence.

(b) The Planning and Zoning Department shall issue the permit if the fence conforms to the requirements of this ordinance. The Planning and Zoning Department may require, as a condition of issuing the permit, that property lines adjacent to the fence location be located and marked by a licensed land surveyor.

(c) A permit is not required for construction of a fence

(i) around a small group of trees or landscape feature if the total enclosed area does not exceed two hundred (200) square feet.

(ii) around a garden or animal enclosure if the total enclosed area does not exceed six hundred (600) square feet; however, a garden or animal enclosure must comply with all other requirements of this section.

(d) A hedge does not require a permit but the hedge must comply with the height restrictions in this section.

#### 7. Construction.

(a) Construction of a fence shall be completed within six (6) months after a permit is issued. All construction debris, extra materials and excess earth shall be removed within fifteen (15) days after construction is completed.

(b) Before constructing a fence, the person holding the permit shall contact Blue Stakes of Utah and all applicable utility companies regarding location of utility lines and meter access requirements.

#### 8. Non-conforming Fences.

Non-conforming fences constructed prior to the effective date of this ordinance shall be brought into compliance with this ordinance if

- (a) the location or height of the fence is changed, or
- (b) the color or material of the fence is changed, or
- (c) more than 50% of the length of the fence is repaired or replaced.

(Ord. 2017-02)

#### 10-11-9: STORAGE AND REPAIR OF VEHICLES:

A. The carrying out of repair, restoration and maintenance procedures or projects on vehicles in any residential zoning district, when such work is not conducted entirely within the interior of the vehicle, shall be subject to the following limitations:

1. Procedures exceeding forty eight (48) hours in duration or which require the vehicle to be immobile or inoperable in excess of forty eight (48) hours shall be carried out within an enclosed building or out of sight.

2. Inoperable vehicles and vehicle parts shall be stored inside an enclosed building.

Please review this subsection with subsection 4-1-6A of this code workbook, indicating if any amendments are necessary.

Response: Please adjust 48 hours to say 72 hours

B. Parking of commercial vehicles of up to one ton shall be permitted in all districts.

C. It shall be unlawful for the owner of any lot in any residential zoning district to permit the open storage or outdoor parking of semitractor (WB-50 or larger) trucks and/or semitrailers, bulldozers, earth carriers, cranes or any other similar equipment or machinery, unless parked thereon while in use for approved construction on such lot. (Ord. 1993-05, 6-16-1993)

#### 10-11-10: KEEPING OF ANIMALS:

The commercial raising of livestock, other farm animals or household

pets shall not be permitted. Domestic animals may be maintained upon the premises, but not to exceed fifty (50) fowl, twenty (20) rabbits, or four (4) other such animals per acre. **One-half ( $1/2$ ) that amount is allowed on less than one acre.**

Please refer to our comments at section 5-6A-6 of this workbook. Said provisions conflict with this legislation. Also, this section is unclear as to what would constitute a "large" animal or "small animal". The city should review this section with the animal control legislation and provide amendments accordingly. We have questioned if the animal control legislation is actually the county legislation.

Also, if this section is retained, the last sentence appears to have words missing or is misstated. Please advise.

**Response: Refer to 5-6A-6 for revisions, including a definition for livestock. Last sentence of this section has been revised.**

#### 10-11-11: ANTENNAS, TOWERS AND SATELLITE DISH ANTENNAS:

Radio or television antennas or towers, including satellite dish antennas and transmission or reception antennas below three hundred (300) watts of output, erected or installed in any zoning district, shall comply with the following requirements:

A. Location: An antenna or tower, with the exception of a satellite dish antenna, shall be located only in a side or rear yard.

B. Distance: No portion of an antenna, including a satellite dish antenna, shall be located closer than thirty feet (30'), measured on a horizontal plane, from any side or ~~rear~~ rear lot line, or placed on any easement.

C. Ground Mounted Antennas: Ground mounted antennas, including satellite dish antennas, in a yard fronting on a public street shall be screened from such street by landscaping or a wall and the site approved by the planning commission, which shall require a sketch plan indicating the location of the satellite dish and buildings, paved areas and other appropriate site features within one hundred feet (100') of the proposed location.

D. Height:



1. The height of an antenna, with the exception of a satellite dish antenna, shall not exceed fifty feet (50') above average grade or ten feet (10') above the peak of the roof line in any residential district, whichever is less.

2. The height of a satellite dish antenna, including any platform or structure upon which the antenna is mounted, shall not exceed twenty five feet (25') in height at its maximum point above average grade.

E. Attachment To Building: Notwithstanding the above, a satellite dish antenna having a diameter of twenty four inches (24") or less may be attached to the roof of a building; provided, that no portion of the satellite dish antenna extends more than thirty six inches (36") above the highest point of the roof.

F. Diameter: The diameter of a satellite dish antenna shall not exceed twelve feet (12').

G. Advertising: No advertising or identification display shall be placed on any portion of an antenna or tower, including a satellite dish antenna.

H. Number: No more than two (2) antennas, including a maximum of one satellite dish antenna, shall be located on the same lot as a principal building. Antennas are permitted only in connection with, incidental to and on the same lot as a principal building, structure or use. (Ord. 1993-05, 6-16-1993)

#### 10-11-12: STREET ACCESS:

Any lot created after the effective date hereof shall have frontage upon a public street right of way or legally recorded access easement at least sixty feet (60') in width. (Ord. 1993-05, 6-16-1993)

#### 10-11-13: ILLEGAL DWELLINGS:

A. The use of any portion of the basement of a partially completed building, or any garage or accessory building for dwelling or sleeping purposes (other than guest facilities permitted in a residential district as a conditional use) in any zoning district is prohibited as of the effective date hereof.

B. Recreational vehicles, camping trailers or tents may be used for living purposes when accessory to single-family dwellings. Such use shall only be permitted for a twenty one (21) day period and for no

more than one such period in any ninety (90) consecutive days as of the effective date hereof. (Ord. 1993-05, 6-16-1993)

10-11-14: RECREATIONAL VEHICLE PARKING:

Parking of recreational vehicles, including boats and camping trailers, shall be permitted subject to the setback standards of other accessory buildings, structures and uses. (Ord. 1993-05, 6-16-1993)

10-11-15: TEMPORARY BUILDINGS AND STRUCTURES:

Temporary buildings and structures, including trailers, incidental to construction work on a lot, may be placed on such lot, subject to the following restrictions:

A. Permitted Uses: Temporary buildings and structures may only be used for the storage of construction materials, tools, supplies and equipment, for construction management and supervision offices, and for temporary on site sanitation, solid waste or fuel facilities, related to construction activity on the same lot.

B. Use As Dwelling Prohibited: No temporary building or structure shall be used as a dwelling unit.

C. Placement: The placement of temporary buildings and structures shall be in conformance with the requirements for accessory buildings, section 10-11-2 of this chapter.

D. Removal: Temporary buildings and structures shall be removed from the lot within fifteen (15) days after an occupancy permit is issued by the building inspector for the permanent structure on such lot, or within fifteen (15) days after the expiration of a building permit issued for construction on such lot, whichever comes first. (Ord. 1993-05, 6-16-1993)

10-11-16: SWIMMING POOLS:

A. Fencing Required: Every person owning land on which there is located a swimming pool, spa, hot tub or similar device which contains twenty four inches (24") or more of water in depth at any point, shall erect and maintain thereon a fence or enclosure approved by the zoning enforcement officer surrounding the device sufficient to make such device inaccessible to small children. Such fence or enclosure, including the gates, shall not be less than four feet (4') or greater

than six feet (6') above grade. All gates shall be self-latching with latches placed no less than four feet (4') above grade or otherwise made inaccessible from the outside to small children.

B. Setbacks: Swimming pools, spas, hot tubs and similar devices shall meet all yard setbacks for the district in which they are located.

C. Front Yard Location Prohibited: Swimming pools, spas, hot tubs and similar devices shall not be located in any front yard. (Ord. 1993-05, 6-16-1993)

#### 10-11-17: GARAGE OR CARPORT REQUIRED:

A. Garage Required: A garage accommodating at least two (2) automobiles shall be required for all new single dwellings.

B. Yard Requirements: The yard requirements shall be met for all garages regardless of their attachment to or detachment from the principal building.

C. Elimination Of Existing: No existing garage areas on any residential property shall be eliminated, unless replaced with a garage located on the same property. (Ord. 1993-05, 6-16-1993)

#### 10-11-18: DETERMINATION OF SIMILAR USES:

A. Scope: The determination as to whether a use is similar to uses permitted by right shall be considered as an expansion of the use regulations of the district and not as a variance applying to a particular situation. Any use found similar shall thereafter be included in the enumeration of uses permitted by right.

B. Application Standards: All applications for permits for a building or use not specifically listed in any of the permitted building or use classifications in any of the districts shall be submitted to the planning commission and, and after the approval by it, confirmed by the city council in compliance with the following standards:

1. Such use is more appropriate and conforms to the basic characteristics of the classification to which it is to be added than to any other classification;

2. Such a use does not create dangers to health and safety, and does not create offensive noise, vibration, dust, heat, smoke, odor, glare or objectionable influences to an extent greater than normally resulting from other uses listed in the classification to which it

is to be added. (Ord. 1993-05, 6-16-1993)

## CHAPTER 12

### SITE PLAN REVIEW

#### SECTION:

- 10-12-1: Site Plan Required
- 10-12-2: Contents Of Site Plan
- 10-12-3: Submission And Review
- 10-12-4: Standard Of Review
- 10-12-5: Duration Of Approval
- 10-12-6: Appeal
- 10-12-7: Site Plan For Zone Change
- 10-12-8: Architectural and Landscaping Standards

#### 10-12-1: SITE PLAN REQUIRED:

A. No building, fence or wall shall be constructed or any grading performed on any lot or parcel of land, and no driveway shall be constructed on or providing access from a public street to any lot or parcel of land, until a site plan has been submitted to and approved by the building official.

B. The building inspector shall not issue a building permit for construction on any lot or parcel until the site plan for said lot or parcel has been approved by the building official. All plans and specifications for the proposed building shall conform to the approved site plan. (Ord. 2009-07, 10-22-2009)

#### 10-12-2: CONTENTS OF SITE PLAN:

Each site plan shall include all items listed on the Site Plan Requirement Checklist, unless the building official waives inclusion of any item.

#### 10-12-3: SUBMISSION AND REVIEW:

A. Submittal: The person seeking approval of a site plan shall submit copies as detailed in the building permit packet and in the site plan approval flow chart.

B. Additional Review: The building official may request the building inspector, the architectural review & landscaping committee, city engineer and city attorney to review a site plan and provide comments to the building official.

C. Decision Of Building Official Time Limit: The building official shall act to approve, approve with conditions, or disapprove the site plan per state statute.

#### 10-12-4: STANDARD OF REVIEW:

A. Approval: If the building official determines that the proposed work shown on the site plan conforms to all requirements of this title, the subdivision ordinance, building code, and all other city ordinances and regulations, he shall approve the site plan. Upon approval, the building official shall file one copy of the site plan showing his signature and date of approval with the city recorder and return one copy showing his signature and date of approval to the applicant.

B. Approval With Minor Changes: If the building official determines that the proposed work shown on the site plan does not conform to all requirements of this title, the subdivision ordinance, building code, and all other city ordinances and regulations but can be made to conform with minor changes to the site plan, he shall approve the site plan subject to condition that such changes be made to the site plan before a building permit is issued as the building official may require. Upon approval, the building official shall file one copy of the site plan and written conditions of approval with the city recorder and return one copy showing his signature and date of approval to the applicant.

C. Disapproval: If the building official determines that the proposed work shown on the site plan does not conform to all requirements of this title, the subdivision ordinance, building code, and all other city ordinances and regulations and cannot be made to conform except

with major changes to the site plan, he shall disapprove the site plan and notify the applicant in writing of the reason or reasons for disapproval. A copy of this letter will be given to the city recorder for retention. (Ord. 2009-07, 10-22-2009)

#### 10-12-5: DURATION OF APPROVAL:

Each approval of a site plan pursuant to this chapter shall expire as follows: a) if a building permit is required for any of the improvements shown on the site plan, approval shall expire six (6) months after the date of approval unless a complete application for a building permit is submitted to the building official before such expiration; b) if a building permit is required for any of the improvements shown on the site plan and a building permit is issued but construction is not completed before expiration of the building permit, approval of the site plan shall expire upon expiration of the building permit; c) if none of the improvements shown on the site plan require a building permit, approval of the site plan shall expire six (6) months after date of approval unless construction is commenced before such expiration; provided, however, if such construction is not prosecuted diligently to completion, approval of the site plan shall expire at the later of: 1) failure to diligently continue the construction; or 2) six (6) months after approval. If approval of a site plan expires as provided herein, the site plan shall be of no further force or effect. (Ord. 2009-07, 10-22-2009)

#### 10-12-6: APPEAL:

The applicant or any other person aggrieved by a decision of the building official pursuant to this chapter may appeal that decision to the board of adjustment as provided by section 10-6-4 of this title. (Ord. 2009-07, 10-22-2009)

#### 10-12-7: SITE PLAN FOR ZONE CHANGE:

A. All applications to the planning commission for a proposed change of the zoning district of any land shall be accompanied by a site plan conforming to section 10-12-2 of this chapter of the entire area proposed to be changed. Such a site plan shall also include summary schedules showing: 1) net residential site area in acres and square feet, including separate breakdowns for subareas; 2) number of proposed dwelling units by type; 3) typical lot dimensions; and 4) proposed residential density.

B. The planning commission may waive any requirement of subsection A of this section, or may require the applicant to submit such

additional information as the commission deems necessary. (Ord. 2009-07, 10-22-2009)

#### 10-12-8: Architectural and Landscaping Standards

These architectural and landscaping standards are established for both exterior and interior design of proposed buildings and structures. Their intent is to promote and encourage a more livable and harmonious visual environment while preserving the natural setting of the city. Furthermore, the intent is to provide a set of guidelines by which the city's Architectural and Landscaping Review Committee can fairly and reasonably apply to all proposed building sites. These Standards help eliminate subjective and arbitrary review by establishing guiding principles under which a city committee can conduct its required assessment.

Some subdivisions in the city may have their own Homeowners Association (HOA) and/or their own separate Covenants, Conditions and Restrictions (CC&Rs) that are enforced by an Architectural Committee or the individual homeowners in the subdivision. The city does not enforce any building restrictions that may be promulgated by these entities. The legal standard is whichever restriction is the more restrictive (the CC&Rs or the city ordinance) rules. The city will enforce its own ordinances.

##### A. Building and Exterior Requirements

1. No single-family residence shall exceed two stories above grade. Grade shall be established as the nearest finished grade adjacent to the main entrance. Maximum height and setbacks shall be determined by the city zoning ordinances.
2. Carports are not allowed as the primary parking area for new residences in Woodland Hills. All new residences must include an attached and enclosed minimum two-car garage as primary parking.
3. Accessory buildings such as storage sheds, barns, etc. shall meet the standards as outlined in the Accessory Building and Uses Ordinance found in Title 10-11-2 of the city ordinances.
4. Single-story residences shall have a minimum of 1400 square feet above grade exclusive of open porches and garages.
5. Two-story residences shall have minimums of 1300 square feet on the main (ground) level and 650 square feet on the upper level exclusive of open porches, balconies, and garages. A story shall be defined as a space designed for residential living having a minimum

ceiling height of 8 feet.

6. All residences shall have a roof that meets the engineered standard for snow loads in Woodland Hills. Approved roofing material for any building, including an accessory building, includes, but is not limited to, slate, tile, composition shingles, non-corrugated metal roofing, membrane roofing, built up roofing, modified bitumen roofing and other roofing material that has a Class A fire rating as defined in the National Fire Danger Rating System (NFDRS) and is approved by the Woodland Hills Fire Department. Corrugated metal roofing and wood shingles of any type, whether treated or not are not approved roofing materials.

7. Except for windows, the exterior finishing material on all elevations of each residence or other building shall have a Class A fire rating as defined in the National Fire Danger Rating System (NFDRS). Combinations of exterior finishes are approved, except no wood shingles are allowed.

8. The Architectural and Landscaping Review Committee must approve all exterior color schemes with preference for neutral and earth-tone colors.

9. All structures must be built according to Woodland Hills Construction and Design Standards and city building codes and comply with set-back requirements for the zone in which they are built.

#### B. Landscaping and Buffer Walls - Residential Users

1. Trees and other natural vegetation, living or dead, must be removed from around any structure to a distance to comply with city fire ordinance found in Title 5, Chapter 4. Further, any and all landscaping must comply with the city fire code ordinance included in Title 5.

2. No fence, wall, hedge, or mass planting shall be permitted to extend beyond the minimum building setback line as identified in city ordinances on any corner lot which will create a traffic hazard by obstructing the view.

#### C. Landscaping and Buffer Walls - Commercial Users

1. Commercial properties shall have a minimum of 10-percent on-site landscaping as a percentage of total site area.

2. Parking lots containing more than 40 spaces shall include planter areas within the parking lot, with a minimum of 100 square feet of planter area for every ten parking spaces.



3. Commercial properties shall have a minimum of 15-foot-wide landscaped areas adjacent to all public streets; these shall include trees with an approximate spacing of 30 feet.

4. Commercial properties shall have a minimum of 10-foot-wide landscaped areas and a 6-foot-high decorative wall or fence where the site abuts a residential use or district. The landscaped area shall include trees with a maximum spacing of 20 feet. If it is determined that this requirement does not further the intent of this ordinance, the Architectural and Landscaping Review committee may waive or modify this requirement, subject to obtaining the written approval of the abutting property owner(s).

#### D. Standards and Maintenance

1. All deciduous trees planted shall have a minimum of 1.5 inch caliper trunk. All evergreen trees planted shall be a minimum of 5 feet in height.

2. All required shrubs shall be a minimum of 5-gallon size.

3. Planting areas shall be separated from commercial parking areas and driveways by a minimum 6-inch-wide concrete curb or sidewalk.

4. Non-natural landscaped areas containing grass, trees or plants shall be maintained with an automatic sprinkler/drip irrigation system.

5. Landscaped areas, both natural and man-made, shall be maintained in a neat, clean, and orderly condition. This is meant to include proper pruning, removal of dead or dying trees and vegetation, lawn mowing, weeding, removal of litter, fertilizing, replacing of dead plants, and regular watering of all landscaped areas. Be advised that we live with wildlife in our city and deer can be very destructive to many plants and small trees. It is suggested to wrap them in chicken wire or some other protective material, particularly when they are initially planted, to help protect them.

6. Xeriscaping to conserve water is highly encouraged.

## CHAPTER 13

### SIGN REGULATIONS

#### SECTION:

- 10-13--1: Intent
- 10-13--2: Establishing Regulations
- 10-13--3: Design Standards
- 10-13--4: Illumination Of Signs
- 10-13--5: Residential Districts
- 10-13--6: Public Facilities Districts
- 10-13--7: Application For Permits
- 10-13--8: Maintenance Of Signs
- 10-13--9: Nonconforming Signs
- 10-13-10: Removal Of Signs

#### 10-13-1: INTENT:

Sign regulations, including provisions to control the type, design, size, location, motion, illumination and maintenance thereof, are established in order to achieve, among others, the following purposes:

- A. Maintain high value residential districts and promote attractive public facilities, by permitting only nameplates, bulletin boards and signs related to the development or sale of properties in such districts;
- B. Eliminate any conflict between general information signs and traffic control signs which would be hazardous to the safety of the motoring public or the pedestrian;
- C. Control the design of signs so that their appearance will be aesthetically harmonious with an overall urban design for the area; and
- D. Promote the most desirable developments and economic activity in accordance with the objectives of the general plan of the city. (Ord. 1993-05, 6-16-1993)

#### 10-13-2: ESTABLISHING REGULATIONS:

- A. Design: Signs shall be designed, erected, altered, reconstructed, moved and maintained, in whole or in part, in accordance with the type, design, size, location, illumination and other provisions set

forth in this chapter.

B. Building Code Applicable: The construction, erection, safety and maintenance of all signs shall be in accordance with the city building code. The provisions of this chapter shall not amend or in any way interfere with other codes, rules or regulations governing traffic signs within the city.

C. Exempt Signs, Displays: The display of official public notices, and the flag, emblem or insignia of an official governmental body shall not be governed by the provisions of these regulations.

D. Prohibited Placement: No sign, permanent or temporary, shall be erected, attached or placed within the right of way of any dedicated street or roadway of the city.

E. Temporary, Portable Mounted Signs: Signs of a temporary or portable nature that are mounted on wheels or stanchions shall not be permitted in any district.

F. Commercial Advertising Vehicle: No commercial vehicle may be parked on a premises for a time period exceeding forty eight (48) hours for the purpose of advertising a product or serving as a business sign. (Ord. 1993-05, 6-16-1993)

#### 10-13-3: DESIGN STANDARDS:

Signs, as permitted in the various use districts, shall be designed so as to be similar in character with regard to materials, color and size to signs designed or located on the same building and on adjoining buildings in order to equalize the attention they are meant to attract, and to produce an overall unified effect and in accordance with the standards set forth in this section.

A. Wall Or Panel Signs: Wall or panel signs shall not project more than twelve inches (12") from the building wall to which it is attached and shall be set back from the end of the building and party wall for a distance of at least three feet (3') and shall not project above the coping or eaves of any building.

B. Permanent Ground Signs: Permanent ground signs shall not extend higher than six feet (6') above the finished grade.

C. Relation To Openings: Signs shall not project over or obstruct the required windows or doors of any building, shall not be attached to or obstruct a fire escape or interfere with other safety provisions as may be further regulated in the building code of the city.

D. Relation To Traffic Devices: Signs shall not be erected so as to obstruct sight lines along any public way, traffic control lights, street name signs at intersections, or street sight lines. Signs visible from the sight lines along a street shall not contain an arrow or words such as "stop", "go", "slow", etc., and the movement, content, coloring or manner of illumination shall not resemble highway traffic signs. (Ord. 1993-05, 6-16-1993)

#### 10-13-4: ILLUMINATION OF SIGNS:

A. Shielding: Light sources to illuminate signs shall be shielded from all adjacent residential buildings and streets and shall not be of such brightness so as to cause glare hazardous to pedestrians or auto drivers or so as to cause reasonable objection from adjacent residential districts.

B. Residential, Public Facilities Districts: In residential districts, illumination of signs is not permitted. All signs in public facilities districts may be illuminated. Parking lots shall be illuminated in accordance with the provisions of this section. (Ord. 1993-05, 6-16-1993)

#### 10-13-5: RESIDENTIAL DISTRICTS:

A. Scope: Accessory signs in residential districts shall be designed, erected altered, moved and maintained, in whole or in part, in accordance with the regulations as provided in this section.

B. Types And Regulations: The types of signs permitted as to use, structure, size and number for each dwelling or lot shall be regulated as follows:

1. Nameplate: One nameplate indicating an occupant's name and house number, not exceeding four (4) square feet in area, may be located on any building or lot but not less than twenty five feet (25') from any side lot line and ten feet (10') from any street right of way line.

2. Directional Or No Trespassing Sign: Two (2) directional, home security or no trespassing signs, not exceeding two (2) square feet in area, shall be permitted on any building or lot.

3. Real Estate Sign: One real estate sign advertising the sale of the premises or part of the premises on which the signs are displayed, and one builder's advertising sign (during construction), not

exceeding six (6) square feet in area or five feet (5') in height, shall be permitted for each dwelling or lot, provided, such sign shall be located not less than twenty feet (20') from any side lot line or closer to the street right of way line than the front property line. Illumination shall not be permitted. A sign must be removed within seventy two (72) hours after closing papers have been signed.

4. Bulletin Board Or Announcement Sign: One bulletin board or announcement sign not exceeding twenty (20) square feet in area or six feet (6') in height may be located on the premises of a public charitable or religious institution in a residential district but not less than fifty feet (50') from any residential lot line or less than fifty feet (50') from the nearest street right of way line. Indirect illumination shall be permitted.

#### 10-13-6: PUBLIC FACILITIES DISTRICTS:

Accessory signs in public facilities districts shall be designed, erected, altered, moved and maintained, in whole or in part, in accordance with the regulations as follows:

A. Bulletin Board Or Announcement Sign: One bulletin board or announcement sign not exceeding fifty (50) square feet in area and not exceeding six feet (6') in height may be permitted on the premises of each public facility and education facility, provided, such sign is set back at least fifty feet (50') from any adjoining residential district boundary and fifty feet (50') from any street right of way line.

B. Nameplate: A nameplate not exceeding two (2) square feet may be placed on each building.

C. Directional And Informational Sign: Directional and informational signs not exceeding six (6) square feet in area may be permitted on any building or lot but not less than forty feet (40') from any lot line or ten feet (10') from the street right of way line. (Ord. 1993-05, 6-16-1993)

#### 10-13-7: APPLICATION FOR PERMITS:

Application for permits to erect, place, paint, illuminate or alter a sign shall be made by the owner or lessee of the property for which a sign is proposed. The application shall be submitted on forms furnished by the city and shall be made either separately or with the application for a building permit. The fee for a sign permit shall be established by separate **ordinance**.

Does the city pass the fees by ordinance or resolution?

Response: Leave as is \_\_\_\_\_, or   X  , **change to resolution**  
**ALSO - Last sentence should read: "The fee for a sign permit shall be established as designated in the city fee schedule."**

A. Permit Required: A sign permit shall be required for all permanent signs as follows:

1. Residential districts: If the sign exceeds six (6) square feet in area.

2. Public facilities districts: If the total area of the sign exceeds fifteen (15) square feet in area.

B. Application: Each application shall be accompanied by drawings to scale, showing:

1. The design and layout proposed, including the total area of the sign, the size, character, materials and color of letters, lines and symbols;

2. The method of illumination, if any;

3. The exact location of the sign in relation to the building and property; and

4. Details and specifications for construction, erection and attachment as may be required by the building code. (Ord. 1993-05, 6-16-1993)

#### 10-13-8: MAINTENANCE OF SIGNS:

All signs and sign structures shall be maintained in a safe and attractive condition. Signs which no longer serve the purpose for which they were intended, or which have been abandoned or are not maintained in accordance with this title and other applicable regulations of the city shall be removed by the latest permit holder or by the city at the expense of such permit holder. Any sign or parts thereof which has been blown down, destroyed or otherwise taken down for any purposes shall not be rebuilt, reerected or relocated unless it shall be made to comply with the provisions of these regulations. (Ord. 1993-05, 6-16-1993)

#### 10-13-9: NONCONFORMING SIGNS:

A. Legal Nonconforming Signs: A sign conforming as to the regulations prevailing on the effective date hereof, but which does not conform with the regulations of this or a subsequent amendment shall be construed as a legal nonconforming sign.

B. Maintenance Permitted: Nonconforming signs may be maintained and structural parts repaired or restored to a safe condition if required and if a permit is issued. However, any sign or parts thereof which has been blown down, destroyed or otherwise taken down for any purpose shall not be rebuilt, reerected or relocated unless it shall be made to comply with the provisions of this chapter.

C. Compliance Time Limit Current Nonconforming Signs:

Notwithstanding the regulations in this section, all nonconforming signs shall be made to conform to the sign regulations within a period of two (2) years. (Ord. 1993-05, 6-16-1993)

#### 10-13-10: REMOVAL OF SIGNS:

Whenever the removal or maintenance of any permanent sign has been ordered by the zoning enforcement officer, the person who erected such a sign or on whose premises such sign of display structure has been erected, affixed or attached shall remove or maintain such sign within forty eight (48) hours after receiving such notice. In the event of noncompliance, the zoning enforcement officer may remove or cause to be removed or maintain such sign at the expense of the person who erected such sign or on whose premises it was erected, affixed or attached. Such person shall be individually and separately liable for the expense incurred in the removal of such sign. (Ord. 1993-05, 6-16-1993)

## CHAPTER 14

### NONCONFORMING BUILDINGS, LAND AND USES

**For statute authority, see UCA § 10-9a-511.**

As noted in section 10-2-1, we point out that Utah Code Annotated section 10-9a-511 now utilizes the term "noncomplying structure". If the city desires to change their reference to match that of the state statute, please be advised that significant language amendments to this chapter are required. Please specify.

Response: **"Nonconforming building" as stated will serve the City's purposes.**

#### SECTION:

10-14--1: Intent  
10-14--2: Lawful Nonconformance  
10-14--3: Discontinuance And Abandonment  
10-14--4: Maintenance And Repair  
10-14--5: Restoration Of Damaged Structure  
10-14--6: Extensions Or Enlarging  
10-14--7: Nonconforming Change Prohibited  
10-14--8: Moving Nonconforming Structures  
10-14--9: Nonconforming Parking Facilities  
10-14-10: Nonconforming Due To Amendments

#### 10-14-1: INTENT:

Regulations for the continuance, maintenance, repair, restoring, moving and discontinuance of nonconforming buildings, land and uses are established in order to achieve among others, the following purposes:

- A. Permit the continuance but control nonconformity so as to minimize any adverse affect on the adjoining properties and development;
- B. Regulate their maintenance and repair;
- C. Restrict their rebuilding if substantially destroyed;
- D. Require their permanent discontinuance if not operated for certain periods of time; and
- E. Require conformity if it is discontinued, to bring about eventual conformity in accordance with the objectives of the general plan and this title. (Ord. 1993-05, 6-16-1993)

#### 10-14-2: LAWFUL NONCONFORMANCE:



The lawful use of any dwelling, building or structure and of any land or premises as existing and lawful at the time of enacting this title, may be continued, although such use does not conform to the provisions of this title. The completion, restoration, reconstruction, extension or substitution of nonconforming uses shall be subject to the provisions and conditions as set forth in this chapter. (Ord. 1993-05, 6-16-1993)

#### 10-14-3: DISCONTINUANCE AND ABANDONMENT:

In the event that the nonconforming use of any dwelling, building or structure and of any land or premises is voluntarily discontinued for one year or more, any future use thereof shall be in conformity with the provisions of this title. (Ord. 1993-05, 6-16-1993)

#### 10-14-4: MAINTENANCE AND REPAIR:

A nonconforming building may be continued to be used and normal repairs and improvements may be made. For the purpose of this chapter, normal repairs shall include the ordinary maintenance of a building or structure, and the replacement of equipment which is required for safety of operation, and the replacement or substitutions of machinery or equipment. A nonconforming residential building may be enlarged if the required yard areas are met in accordance with the requirements of section 10-11-4 of this title. (Ord. 1993-05, 6-16-1993)

#### 10-14-5: RESTORATION OF DAMAGED STRUCTURE:

A. Damage Of Sixty Percent Or More: Any nonconforming building or structure, except a one-family residence, which has been destroyed or damaged by fire, other casualty, act of God or by a public enemy to the extent of sixty percent (60%) or more of its cost of restoration to the condition in which it was before the occurrence, shall thereafter conform to all the provisions of this title.

B. Damage Less Than Sixty Percent: The total structural repairs, improvements and alterations, including repairs occasioned by fire, other casualty, act of God or by a public enemy to the extent of less than sixty percent (60%) of its cost of restoration, shall not, during the life of the structure or use after the enactment of this title, exceed sixty percent (60%) of the reproduction value of the structure as of the date of enactment of this title, unless the structure or use be permanently changed to a conforming use.

C. Determination Of Value: Determination of the reproduction value shall be made by three (3) practicing building construction contractors, one to be appointed by the owner, one to be appointed by the city and the third to be selected by the mutual consent of the two (2) parties.

D. Time Limits: In the case of repair or replacement of partial destruction of the structure, a building permit must be applied for within six (6) months of the destruction and repairs must be completed within six (6) months of the issuance of the permit or the nonconforming structure or use shall be considered to be abandoned. (Ord. 1993-05, 6-16-1993)

#### 10-14-6: EXTENSIONS OR ENLARGING:

Any nonconforming building shall not be enlarged or structurally altered except to make it a conforming building. A nonconforming residential building may, however, be enlarged in accordance with the provisions of section 10-14-4 of this chapter. A nonconforming use may not be extended within a building, enlarged or added to in any manner. (Ord. 1993-05, 6-16-1993)

#### 10-14-7: NONCONFORMING CHANGE PROHIBITED:

The use of a nonconforming building may be changed only to a use conforming to the district in which the building is located if approved by the planning commission. Thereafter, it shall not be changed back to the former nonconforming use. (Ord. 1993-05, 6-16-1993)

#### 10-14-8: MOVING NONCONFORMING STRUCTURE:

A nonconforming structure may be moved to a different location on the same lot or other parcel of land within the district, with approval of the planning commission, after a hearing, and provided proper and adequate alterations are secured to make the structure conform to the regulations of the district where it is located. (Ord. 1993-05, 6-16-1993)

#### 10-14-9: NONCONFORMING PARKING FACILITIES:

A building or use existing lawfully at the time this title or any amendment thereto which became effective, but which does not conform

with the off street parking or off street loading regulations, may be occupied by the existing use without such parking and/or loading facilities being provided. However, any additional parking spaces that may be provided thereafter shall comply with the regulations set forth in chapter 16 of this title. If the existing building is altered so that there is an increase of the number of dwelling units, seating capacity or floor area, or if the use is changed to a use requiring more off street parking facilities, then off street parking and loading facilities shall be provided at least equal to the number of spaces required for the entire building or use in accordance with all provisions of chapter 16 of this title. (Ord. 1993-05, 6-16-1993)

#### 10-14-10: NONCONFORMING DUE TO AMENDMENTS:

The foregoing provisions of this chapter shall also apply to buildings, structures, land or other uses hereafter becoming nonconforming as a result of future reclassification of districts or of other amendments made to this title. (Ord. 1993-05, 6-16-1993)

## CHAPTER 15

### CONDITIONAL USE PERMITS

**For statute authority, see UCA § 10-9a-507.**

SECTION:

- 10-15-1: Purpose
- 10-15-2: Application Procedures
- 10-15-3: Review Standards
- 10-15-4: Design And Use Standards

10-15-1: PURPOSE:

A. This chapter provides a set of procedures for granting permits for conditional uses of land or structures, which, because of their unique characteristics, require special consideration in relation to the welfare of adjacent properties and the community as a whole.

B. Certain uses which may be harmonious under special conditions and in specific locations within a zone, but be improper under general conditions and in other locations within a zone, are classed as conditional uses within the various zones and require conditional use permits. A conditional use permit shall be required for all uses listed in this title as conditional uses. A conditional use permit may be revoked upon failure to comply with the conditions to the original approval thereof.

C. In evaluating applications for conditional use permits, the planning commission and all other city officers will do so on the basis that residential districts shall retain their residential character. It is the intent that conditional use permits shall not be used to commercialize or otherwise change the essential character of residential districts. (Ord. 2004-05, 5-26-2004)

10-15-2: APPLICATION PROCEDURES:

An application for a conditional use permit shall be submitted, processed and granted or denied under the following procedures:

A. Submittal: An application shall be submitted to the city recorder or other person appointed by the mayor on a form for that purpose. Each application shall be accompanied by the payment of a fee as established by the city council. Each application shall be accompanied by such maps, drawings, statements, including a complete site plan as specified in section 10-12-4 of this title for any structural change or other documents as the zoning enforcement officer or his designee and planning commission shall deem necessary to fully evaluate the application.

B. Zoning Enforcement Officer Review: The zoning enforcement officer or his designee shall review and evaluate the application. The city recorder shall transmit the application to the planning commission for action, together with the recommendation of the zoning enforcement officer or his designee as to approval, disapproval, or recommended conditions of approval of the conditional use permit.

C. Planning Commission Consideration: The planning commission shall consider the application at a public hearing held for that purpose. Notice of the public hearing shall be given in the manner required by law and by this title. Written notice of the public hearing shall also be mailed by the planning commission at least fourteen (14) days before the hearing to the owners of real property located within three hundred feet (300') of the property for which a conditional use permit is sought. The planning commission may, following the public hearing, recommend that the city council deny, approve or approve with conditions the application. The planning commission shall transmit its recommendation to the city council within seven (7) days after the meeting at which the recommendation is made.

D. City Council Action: The city council will consider the application and the recommendation of the planning commission within thirty (30) days of the date the recommendation of the planning commission is transmitted to the city council. The city council shall deny, approve or approve with conditions the application. If the city council does not take action on the application before expiration of the thirty (30) day period, the recommendation of the planning commission shall become final and be considered as the action of the city council. Any approval or approval with conditions shall be given only as follows:

1. The city council may permit a conditional use to be located within any zone in which the particular conditional use is allowed by the provisions of this title governing that zone.

2. In authorizing any conditional use, the city council shall impose such requirements and conditions as it deems necessary for the protection of adjacent properties and the public welfare. A conditional use permit shall not be granted unless the evidence presented by the applicant shows all of the following:

- a. Such use will not, under the circumstances of the particular case, 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 will comply with the regulations and conditions

specified in this title for such use.

3. Upon the granting of any conditional use permit, the city council shall itemize, describe and justify the conditions imposed on the use, including the conditions specified in section 10-15-4 of this chapter. Such conditions shall be attached to the permit when it is issued.

E. Term Of Validity: Approval of a conditional use permit granted pursuant to this chapter shall be valid for a period of one year from the date of approval. If the ~~use~~ conditional use has not commenced by the end of this one year period, the zoning enforcement officer or his designee shall notify the applicant in writing of the expiration of approval for the conditional use.

Suggest omission of ~~strikeout~~ text. Agree?

Response: Yes ~~X~~, No       , or change as follows:

F. Revocation: The planning commission shall have the authority, upon petition of the city or any interested party, to revoke any conditional use permit after the applicant has failed to comply with any of the applicable requirements of this chapter, or any other applicable provision of this title.

G. Transfer: Except as specifically provided herein, no conditional use permit granted pursuant to this chapter may be transferred by the holder thereof:

1. Transfer of a temporary conditional use permit shall require prior approval of the planning commission.

2. A conditional use permit which is expressly by its terms or by the terms of the provision under which it is issued made nontransferable shall not by reason of this subsection become transferable.

H. Home Occupations: The provisions of subsection G of this section to the contrary notwithstanding, conditional use permits for home occupation shall be subject to the following:

With regard to this subsection H, the city sent ordinance 2010-04 as an amending ordinance; however there is an image in the background indicating "not approved". As such, we have not included; however, we wish to confirm that said ordinance is in fact not approved and will not be codified in this subsection.

Response:   X   Yes (not approved);        No (please explain)

1. All conditional use permits for a home occupation shall be nontransferable.

2. All conditional use permits for a home occupation shall expire one year after final approval or one year after the last renewal. They shall be renewed by the zoning enforcement officer unless the zoning enforcement officer determines to:

a. Refuse renewal due to violation of the conditions of the permit;  
or

b. Refer the question of renewal to the planning commission.

3. A conditional use permit issued for a home occupation may be revoked by the zoning enforcement officer for failure of the holder of the permit to comply with any of the conditions of subsection 10-15-4A of this chapter. The zoning enforcement officer may likewise refuse to allow renewal of a conditional use permit for failure of the holder to comply with any of the conditions of subsection 10-15-4A of this chapter.

4. Before the zoning enforcement officer determines to refuse renewal or refer the question of renewal to the planning commission or revokes a conditional use permit pursuant to subsection H3 of this section, he shall give written notice of the violation to the permit holder. The notice shall describe the violation, state what the permit holder must do to comply with the permit and this title, and inform the permit holder that the permit may be revoked or not renewed if noncompliance continues for longer than one month after the notice. Notice shall be sufficient if delivered to the permit holder or mailed by certified or registered mail to the permit holder at the address on the permit.

5. The zoning enforcement officer or his designee may, at all reasonable times, enter the premises for which conditional use permit for a home occupation has been issued to ascertain compliance with subsection 10-15-4A of this chapter. Refusal of the owner or occupant of the premises to allow such inspection shall be grounds for denial or revocation of the conditional use permit.

I. Appeal: Any applicant for or holder of a conditional use permit shall have the right to appeal the decision of the zoning enforcement

officer or planning commission regarding issuance, conditions, renewal, extension or revocation of the permit to the city council. (Ord. 2004-05, 5-26-2004)

#### 10-15-3: REVIEW STANDARDS:

Each application for a conditional use permit shall be reviewed under the following standards:

A. Location: The use shall be properly located in relation to the general plan, and particularly in relation to the collector and local street system and pedestrian circulation pattern.

B. Traffic: When the use is to located on a local street, it will generate the least possible traffic through a residential area.

C. Commercial Activity In Residential Zones: As provided by the general plan, residential zones are intended to be for residential use only and to not allow commercial activity.

D. Residential Zones: As provided by the general plan, in the **RR, R1 and R2 zones**:

As we have questioned throughout this title, please be sure the above referenced zones are correct, referring specifically to section 10-7-1 of this title.

Response: Yes, leave as is \_\_\_\_\_, or change as follows:  
**R-2 to be replaced with R1-2 and R1-80**  
**R-1 to be replaced with R1-1 and R1-40**  
**R1-19 should be added**  
**RR to be replaced with RR1-10**

1. All buildings, structures and improvements are permitted only as they function or enhance residential as opposed to commercial activities, i.e., parking spaces may be provided so long as they enhance residential living; door openings and floor plans must complement the residential character of the building; and

2. Commercial activities must be only incidental to home living.

E. Commercial Activities Infringing On Residential Areas: The city seeks to avoid commercial creep by restricting commercial activities that by themselves may not infringe on residential environmental quality, but may grow to do so and may be referred to as precedent for other businesses that may do so.



F. Home Occupations: Home occupations in residential zones must retain the essential residential character of all residences and any home occupation should be clearly incidental to use of any land in the zone as a residence.

G. Design And Operation: The location design and operation of the conditional use will not discourage appropriate development or impair the value of the surrounding residential district.

H. Necessity: The conditional use is necessary to serve the surrounding residential areas which cannot be served satisfactorily if the same use is located in another nearby zoning district where the use may be permitted by right. (Ord. 2004-05, 5-26-2004)

#### 10-15-4: DESIGN AND USE STANDARDS:

A conditional use allowed in any zoning district shall be subject to the requirements of the district in which such use is located and shall conform to the specific conditions contained in this section for a particular use, as well as any additional condition of approval made by the city council pursuant to section 10-15-2 of this chapter. In addition to all other conditions of approval made by the city council, the specific conditions for a conditional use specified by this section shall be attached to a conditional use permit and shall be stated on the permit.

A. Home Occupations: All home occupations, including those for which no conditional use permit is required as provided in subsection B of this section, shall be allowed only subject to and shall at all times comply with the following conditions:

1. The home occupation shall be conducted entirely within a building and the space used for the home occupation shall not occupy more than thirty percent (30%) of the total floor area of the dwelling, nor more than thirty percent (30%) of the floor area of a detached building;

2. No goods or merchandise having a size greater than ten (10) cubic feet when measured at its outside dimensions shall be sold from or delivered from the premises, except that which is produced or processed on the premises. No more than one person other than members of the family occupying the dwelling on the lot shall be employed or participate in the home occupation at the residence;

3. The home occupation shall not be associated with nor produce odor, fumes, dust, light, glare, color, design, materials, effluent,

lighting, sounds, noises, vibrations, electrical disturbances including interference with radio or television reception, that may be discernable beyond the premises or which disturb the peace and quiet of the neighborhood; nor shall the home occupation produce wastewater other than that normally associated with residential use of the property where the home occupation is located;

4. The home occupation shall be clearly incidental and secondary to the use of the lot for residential purposes and the residential character of the dwelling or accessory building shall not be changed;

5. Trucks with a rated capacity of greater than nine thousand (9,000) pounds gross vehicle weight shall not be used and trucks or other mobile equipment shall not be parked overnight in driveways or open yards; no vehicles or trailers shall be used, with the exception of one delivery truck which does not exceed one ton rated capacity; and the home occupation shall not attract any greater number of automobiles to the premises than normal residential traffic associated with the residential use of the lot where the home occupation is located;

6. The home occupation shall be registered with and licensed by all applicable county and state agencies;

7. Entrance from the outside to the area of the dwelling or other structure used for the home occupation shall be the same entrance normally used by the residing family, except when otherwise required by the state department of health or other regulating agency;

8. The home occupation and the structure in which it is conducted shall comply with all fire, building, plumbing, electrical and health codes;

9. A home occupation shall not involve furnishing childcare for more than eight (8) children, other than children who reside in the dwelling, and childcare may not be provided for more than four (4) children under the age of two (2);

10. The home occupation shall not require the use of any hazardous substance in excess of the amount usually used or stored for residential use of the parcel where the home occupation is located;

11. No sign or other visible indication shall be used to show that a business is located on the premises.

B. Uses Not Requiring Conditional Use Permit; **Business License**

**Required:** Notwithstanding any provision of this title, a conditional use permit shall not be required but rather a **business license should**

**be obtained from the city recorder**, when such use is limited to:

Regarding this subsection and subsection C below, the city did not provide legislation that it issues business licenses. Please advise.

**Response: ... Section 123.04 of the City's current zoning ordinance states this. No action required.**

1. Receiving and sending mail and electronic communications;
2. Consultation by a physician, dentist, lawyer, engineer or other professional person, but not general practice of such profession;
3. The occupation of a dressmaker, milliner, seamstress or tailor, provided not more than three (3) customers are at the premises at any time;
4. The occupation of a musician who teaches voice, piano or other individual musical instrument, provided not more than three (3) students are at the premises at any time;
5. Use of an office for bookkeeping.

C. Exemptions To Permit Or License Requirement: Notwithstanding any provision of this title, neither a conditional use permit nor a business license shall be required for the following:

1. Hobbies and occupations having gross receipts of less than five thousand dollars (\$5,000.00) in any calendar year; or
2. Child vendors, such as lemonade stands, pet sitting, newspaper delivery, lawn care or balloon sales.

Although a business license may not be required, the above must still comply with the design and use standards referred to in this section.

D. Parking, Garage Facilities: Parking and garage facilities in residential districts shall be in compliance with the general standards as set forth in chapter 16 of this title.

E. Freestanding Private TV Antennae And Satellite Dish Antennae In ~~All~~ Residential Districts:

~~1. Residential Districts:~~

Suggest omission of strikeout text and inclusion of underlined since the regulation is strictly for residential districts. Agree?

Response: Yes   X  , No       , or change as follows:

1. Only satellite dishes shall be allowed.
2. Setbacks shall be at least ten feet (10') from any property line.
3. Permanent landscaping shall visually screen the structure from adjacent residences during all seasons of the year.
4. The receiving unit shall be permanently anchored to a foundation.
5. The maximum height shall be twenty five feet (25').
6. A site plan shall be submitted to the zoning enforcement officer for approval prior to the issuance of a building permit. The site plan shall include the proposed location and an elevation showing the proposed height and foundation details.

F. Temporary Buildings And Enclosures In Residential Districts:

1. Buildings and enclosures must be deemed necessary for construction operations of the dwellings and accessory buildings of the area for which a building permit has been issued.
2. Such structures shall be limited to offices, yards and buildings for the storage of lumber, equipment and other building materials, and workshops for prefabricating building components.

Suggest inclusion of underlined. Agree?

Response: Yes   X  , No       , or change as follows:

3. The operations and activities carried on within such structures shall not adversely affect the use of nearby dwellings by reason of noise, smoke, dust, odor, fumes, vibration, electrical disturbance

or glare to a greater extent than normal is a residential district that is being developed.

4. The hours of operation shall be restricted to the hours between seven o'clock (7:00) A.M. to eight o'clock (8:00) P.M., Monday through Saturday, and the concentration of vehicles attracted to the premises in connection with such use shall not be more hazardous than normal traffic in a residential district that is being developed.

5. All temporary structures shall be located at least one hundred feet (100') from the nearest occupied residential dwelling.

6. All temporary structures and yard storage areas are enclosed by a fence that meets the **city fencing ordinance**.

As questioned in chapter 11 of this title, we are unsure of this reference. Does the city desire to be more specific?

**Response: Please remove number 6 from this section. The city does not require temporary buildings or structures to be enclosed by a fence.**

7. The conditional use permit for all temporary structures shall be for a period of six (6) months and may be renewed by the planning commission only while construction operations related to the temporary structure are diligently pursued.

G. Private Recreation In Residential Districts: Private recreation uses in residential districts **(RR and R2 only)**, including golf courses, cross-country skiing, snowmobiling and private or commercial equestrian facilities and accessory commercial uses are subject to the following:

Please be sure the above referenced zones are accurately described.

Response:  
**R-2 to be replaced with R1-2 and R1-80**  
**RR to be replaced with RR1-10**

Suggestion inclusion of underlined text. Agree?

Response:   X   Yes;        No

1. Minimum lot size shall be forty (40) acres;
2. The principal and accessory buildings, including maintenance sheds, shall be set back at least seventy five feet (75') from all property and street lines;
3. Accessory buildings, structures and storage areas shall be screened on all sides from adjacent residential areas and public street rights of way;
4. Operational hours for maintenance vehicles, course maintenance and/or irrigation may be restricted to protect nearby residential districts;
5. The use can be easily accessed from the collector road system in the city to eliminate excessive traffic in residential districts that would otherwise negatively impact those districts;
6. The use shall be provided with public utilities, including water supply and wastewater treatment and collection approved by Utah County;
7. The use shall not jeopardize the existing topographic character in the city which would create an unstable soil condition and unnatural grades on the proposed development site;
8. The negative impact to environmentally sensitive areas (flora and fauna) in the city shall be minimal within reason;
9. The proposed use shall not negatively impact the rest of the community in terms of light, air quality and general safety of its residents. (Ord. 2011-04, 6-22-2011)

## CHAPTER 16

### PARKING AND LOADING FACILITIES

#### SECTION:

- 10-16--1: Intent
- 10-16--2: Scope Of Regulations
- 10-16--3: Application And Design
- 10-16--4: Schedule Of Parking Requirements
- 10-16--5: Continuation Of Facilities
- 10-16--6: Location Of Facilities
- 10-16--7: Parking Area Improvements
- 10-16--8: Illumination Of Parking Areas
- 10-16--9: Driveways To Parking Areas
- 10-16-10: Approval Of Facilities

#### 10-16-1: INTENT:

Off street parking and loading requirements and regulations are established in order to achieve, among others, the following purposes:

- A. Relieve congestion so the streets can be utilized more fully for movement of vehicular traffic;
- B. Promote the safety and convenience of pedestrians by locating parking areas so as to lessen car movements in the vicinity of intensive pedestrian traffic;
- C. Protect adjoining residential neighborhoods from on street parking;
- D. Provide regulations and standards for the development of accessory off street parking and loading facilities in accordance with the objectives of the general plan of the city. (Ord. 1993-05, 6-16-1993)

#### 10-16-2: SCOPE OF REGULATIONS:

Accessory off street parking facilities shall be provided as a condition precedent to occupancy of all residential and institutional uses in conformance with the provisions of this chapter:

- A. Whenever a building is constructed or a new use established;

B. Whenever an existing building is altered and there is an increase in the number of dwelling units, seating capacity, the floor area of building; and

C. Whenever the use of an existing building is changed to a more intensive use which requires more off street parking facilities, except certain nonconforming uses may continue as provided in section 10-14-9 of this title. (Ord. 1993-05, 6-16-1993)

#### 10-16-3: APPLICATION AND DESIGN:

A. Application For Providing Facilities: Any application for a permit to construct a building or parking area, or for a certificate of occupancy for a change in use of land or building, shall include a site plan drawn to scale and fully dimensioned showing the proposed design of the parking area and loading facilities to be provided in compliance with the provisions of chapter 12, Site Plan Review, of this title.

B. Determination Of Required Parking Facilities: The minimum number of spaces required for accessory off street parking shall be determined by applying the parking area design standards in subsection C of this section, the schedule of parking requirements for the various uses in section 10-16-4 of this chapter, and any other applicable provisions of this title. Where the computation results in a fractional space, it shall be counted as one additional space required.

C. Parking Area Design Standards: The plan for parking spaces of a parking area included with an application to construct a building or parking area, or change in use, shall be designed and dimensioned in accordance with the following:

1. A parking space shall be not less than nineteen feet (19') in length by nine feet (9') in width.

2. All parking spaces shall be permanently surfaced of either blacktop or asphaltic concrete in accordance with construction standard as required by the city.

3. All parking areas shall include appropriate access roads between spaces in accordance with this title. (Ord. 1993-05, 6-16-1993)

#### 10-16-4: SCHEDULE OF PARKING REQUIREMENTS:



Accessory off street parking facilities shall be provided in quantities not less than set forth in the following schedule:

Building Use	Minimum Spaces Required
Residential:	
One-family dwellings	<b>3 spaces per dwelling unit.</b>
Community facilities:	
Governmental	1 space for every 50 square feet of floor area in public meeting or assembly rooms, plus 1 space for every 200 square feet of other floor area, plus 1 space for each 2 employees per maximum shift.
Civic: libraries, churches, club and community centers	1 space per 400 square feet.

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(Ord. 1993-05, 6-16-1993)

Is the above correct in that one-family dwellings require 3 spaces per dwelling unit, as opposed to 2?

Response: Yes, leave as is **\_ X \_** , or change as follows:

#### 10-16-5: CONTINUATION OF FACILITIES:

Off street parking facilities accessory to an existing use on the effective date hereof shall be continued and maintained in operation, and shall not be reduced below the requirements of this title during the period that the main use is maintained. (Ord. 1993-05, 6-16-1993)

#### 10-16-6: LOCATION OF FACILITIES:

Accessory parking facilities shall be provided at locations as set forth herein, except as modified.

##### A. Residential districts and uses:

1. Accessory, enclosed or open parking facilities as required, shall be provided on the same lot as the dwelling unit served.

2. No boat, tractor truck, trailer, recreation vehicles or other equipment and supplies may be parked and/or stored on a residential

lot unless they are parked and/or stored as provided for in section 10-11-14 and 10-11-15 of this title. (Ord. 1993-05, 6-16-1993)

#### 10-16-7: PARKING AREA IMPROVEMENTS:

Parking areas and access driveways shall be designed, graded, constructed, altered and maintained as follows:

A. Grading And Pavement: Parking areas and access driveways shall be graded and drained so that surface water shall not be allowed to flow onto adjacent properties. Parking areas and driveways shall be improved with asphaltic concrete or Portland cement pavement, in accordance with the standards established in the city subdivision regulations.

B. Design Of Areas: Parking areas shall be so arranged and marked to provide for orderly and safe parking and storage of vehicles in accordance with the aforesaid parking area design standards.

C. Features: The city may also require landscape features such as a compact evergreen hedge, shrubs or screening by a substantially solid fence between such parking areas and a side or rear lot line of a residential district in accordance with standards established in other sections of this title.

D. Signs: Signs located on or related to parking areas shall be limited to those indicating the operator, purpose or use served, or instructions for parking. (Ord. 1993-05, 6-16-1993)

#### 10-16-8: ILLUMINATION OF PARKING AREAS:

Parking areas shall be illuminated whenever the planning commission determines that such illumination is necessary to ensure the public safety. Lighting fixtures shall be designed and located so as not to cast direct rays of excessive brightness upon adjoining residential districts or cause a glare hazardous to pedestrians or auto drivers on adjacent public streets. (Ord. 1993-05, 6-16-1993)

#### 10-16-9: DRIVEWAYS TO PARKING AREAS:

A. Location, Width, Number: The location, width and number of entrance and exit driveways serving accessory parking facilities, shall be planned in such a manner as to interfere as little as possible with the use of adjacent property, and the flow of traffic on the streets to which they connect.

B. Areas Up To Twenty Spaces: Parking areas of up to twenty (20) spaces shall have at least one 2-lane driveway located at least fifty feet (50') from the right of way line of the nearest intersecting street, except as modified by the planning commission.

C. More Than Twenty Spaces: Parking areas of more than twenty (20) spaces should, if possible, have two 2-lane driveways located not less than fifty feet (50') from the right of way line of the nearest intersecting street, except as modified by the planning commission.

D. Width: Entrance or exit driveways shall not exceed three (3) lanes in width and be designed so that all cars can be driven forward into the street. The width of such driveways, measured at the street right of way line, shall conform with the following schedule, except as modified by the planning commission:

Width Of Driveway		
Number Of Lanes	Minimum Feet	Maximum Feet
1	10	12
2	18	24
3	27	36

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E. Angle: The angle of intersection between the driveway and the street shall be between seventy degrees (70°) degrees and ninety degrees (90°). The radii of the edge of the driveway apron shall be at least twenty feet (20'). (Ord. 1993-05, 6-16-1993)

#### 10-16-10: APPROVAL OF FACILITIES:

A. Detailed Drawings: Detailed drawings of accessory off street parking and loading facilities shall be submitted in accordance with all the provisions of this chapter for review by the planning commission.

B. Structural Or Landscape Features: The planning commission may require structural or landscape features, such as bumper guards, curbs, walls, fences, shrubs, ground cover or hedges to further carry out the objectives of the general plan and of this title before an application is approved and a building permit or certificate of occupancy may be issued. (Ord. 1993-05, 6-16-1993)

## **TITLE 11 - Subdivision Ordinance**

### CHAPTER 1

#### ADMINISTRATION AND ENFORCEMENT

##### SECTION:

- 11-1-1: Title
- 11-1-2: Purpose And Intent
- 11-1-3: Land Shall Be Subdivided Before Recording
- 11-1-4: Interpretation
- 11-1-5: Validity
- 11-1-6: Conflict
- 11-1-7: Amendment Procedure
- 11-1-8: Penalty

##### 11-1-1: TITLE:

This title shall be entitled the *WOODLAND HILLS SUBDIVISION ORDINANCE*, and may be so cited and pleaded. (Ord., 8-17-1994)

##### 11-1-2: PURPOSE AND INTENT:

The purposes of this title shall be as follows:

- A. To promote the health, safety, convenience and general welfare of the present and future inhabitants of the city;
- B. To facilitate the transfer of land having accurate legal descriptions;
- C. To provide for the development of a wholesome and attractive environment within and adjacent to the city;
- D. To set forth the rights, duties and obligations of subdividers with respect to the subdivision and development of land;
- E. To facilitate the implementation of the general plan for the city and to comply with the proposals and requirements of the zoning ordinance respectively;
- F. To encourage orderly development of land to obtain harmonious and stable neighborhoods;

G. To provide for reservation and dedication of land for safe and convenient pedestrian and vehicular circulation and public open spaces for recreation and other public purposes;

H. To provide for the construction of streets and utilities which will be adequate and economical to maintain; and

I. To assure the accurate surveying of land and preparing and recording plats. (Ord., 8-17-1994)

#### 11-1-3: LAND SHALL BE SUBDIVIDED BEFORE RECORDING:

From the effective date hereof, excepting those projects that already have at least preliminary plan approval, no person shall subdivide any tract of land which is located wholly or in part within the city, nor shall any person sell, exchange or purchase any parcel of land which is any part of a subdivision of a larger tract of land within the above described territory, nor shall any person offer for recording any deed conveying a parcel of land or any interest therein, unless he shall first have or cause to have made a plat thereof, which plat must be approved by the planning commission and the city council and which has been recorded with the county recorder before such sale or exchange or purchase is affected. Approval of a final plat shall be subject to compliance with the requirements of this and other city ordinances and policies. (Ord., 8-17-1994)

#### 11-1-4: INTERPRETATION:

The provisions of this title shall be construed to be the minimum requirements necessary for the preservation of public health, safety and welfare within the city. This title is not intended to conflict with any statutes, laws or regulations of the state or county, except that this title shall prevail in cases where the title imposes a lawful restriction or requirement more severe than existing statutes, laws or regulations. (Ord., 8-17-1994)

#### 11-1-5: VALIDITY:

Should any section or provision of this title be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this title as a whole, or any part thereof, other than the section or provision so declared to be invalid, nor shall the decision affect its application to different facts or circumstances. (Ord., 8-17-1994)

11-1-6: CONFLICT:

All ordinances, regulations, resolutions and/or parts thereof which are in conflict herewith, to the extent of such conflict, are hereby repealed. (Ord., 8-17-1994)

11-1-7: AMENDMENT PROCEDURE:

In amending this title for the city, the procedure shall be as follows:

A. Proposal: Such amendment may be proposed by the city council or the planning commission.

B. Planning Commission Public Hearing: The planning commission shall hold a public hearing on the proposed amendment before making its final recommendation to the city council. ~~Reasonable~~ Notice of the public hearing shall be provided at least fourteen (14) calendar days before the date of the hearing and shall comply with the requirements of Utah Code Annotated sections 10-9a-205 and 10-9a-602.

Suggest inclusion of underlined as the statutes provide very specific procedures for public hearings and notice requirements. Also, suggest the city review said statutes to be sure the 14 day requirement is as desired by the city officials. Please be sure to specify any necessary or desired amendments. Agree?

Response: Yes \_\_\_\_\_, No X, or change as follows:

**Delete "at least fourteen (14) calendar days"**

C. City Council Public Hearing: Following the receipt of the planning commission recommendation for adoption of an amendment, the city council shall hold a public hearing, ~~allowing for reasonable~~ providing notice of the public hearing at least fourteen (14) calendar days before the date of the hearing and shall comply with the requirements of Utah Code Annotated sections 10-9a-205 and 10-9a-602.

Suggest inclusion of underlined as the statutes provide very specific procedures for public hearings and notice requirements. Also, suggest the city review said statutes to be sure the 14 day requirement is as desired by the city officials. Please be sure to specify any

necessary or desired amendments. Agree?

Response: Yes \_\_\_\_, No X\_\_, or change as follows:  
**Delete "at least fourteen (14) calendar days"**

D. City Council Decision: After the public hearing, the city council may amend the ordinance or reject the proposed amendment. (Ord., 8-17-1994)

11-1-8: PENALTY:

For statute authority, see UCA § 10-9a-803.

A. Any person, firm or corporation who shall transfer or sell any lot or land in a "subdivision", as defined in section 11-2-1 of this title, which subdivision has not been approved by the planning commission and the city council and recorded in the office of the county recorder, shall be guilty of a class C misdemeanor for each lot or parcel of land so transferred or sold, and subject to penalty as provided in section 1-4-1 of this code.

B. The city may also institute injunction, mandamus or other appropriate action or actions to prevent violation of the provisions of this title.

C. Any person, firm or corporation violating any of the provisions of this title shall be guilty of a class C misdemeanor and, upon conviction thereof, may be ~~punished by a fine not to exceed five hundred dollars (\$500.00) or imprisonment for not more than ninety (90) days, or both fine and imprisonment~~ subject to penalty as provided in section 1-4-1 of this code. Each day that a violation exists shall constitute a separate offense. The imposition of any sentence or fine shall not exempt the offender from compliance with the requirements of this title. (Ord., 8-17-1994)

## CHAPTER 2

### DEFINITIONS

#### SECTION:

##### 11-2-1: Definitions

##### 11-2-1: DEFINITIONS:

Words in this title are normally used in their ordinary English usage. Certain terms are, however, defined in this section and wherever used in this title, they shall have the meaning as set forth in this section, except where the context clearly indicates a different meaning.

The word "shall" is to be interpreted as mandatory and shall be complied with unless waived; "may" is to be interpreted as having permission or being allowed to carry out a provision; "should" is to be interpreted as expressing that the application of said criteria or standard is desired and essential unless commensurate criteria or standards are achieved.

All words used in the singular shall include the plural, and all words used in the present tense shall include the future tense, unless the context clearly indicates the contrary.

**!DEF! BUILDING OFFICIAL:** The city official charged with the enforcement of this title.

Is this correct that the building official is the enforcement official? Note at section 10-3-1 of the zoning title specifies the zoning enforcement official, building official and/or city council.

Response: Yes, leave as is \_\_\_\_\_, or change as follows:

**Please make all references say "building inspector."**

**CITY:** Refers to the city of Woodland Hills, Utah.

**CITY COUNCIL:** The legislative body of the city of Woodland Hills.



CITY ENGINEER: A registered professional engineer retained by the city of Woodland Hills to perform engineering services for the city.

COMMISSION: The planning commission for the city of Woodland Hills.

CONCEPT PLAN: The conceptual layout of a proposed subdivision drawn to scale and on a topographic map.

CONDITIONAL APPROVAL: Approval given for a preliminary or final plat with any conditions given by the approving body.

DWELLING: Any building or portion thereof designed or used exclusively as the more or less permanent residence or sleeping place of one or more persons.

EASEMENT: That portion of a lot or lots reserved for present or future use by a person or agency other than the legal owner of said property. The easement may be for use on, under or above said lot.

FINAL PLAT: A subdivision map prepared in accordance with the provisions of this title, which is designed to be recorded with the office of the county recorder.

GENERAL PLAN: An overall plan for the long range growth and development of the city of Woodland Hills with an emphasis on land use and transportation.

LOT: A division of land separated from other divisions for purpose of sale, lease or separate use, described on a recorded subdivision plat, recorded survey map or by metes and bounds.

ORDINANCE: The adopted subdivision ordinance for the city of Woodland Hills.

PLANTING SCREEN: A twenty foot (20') buffer that is landscaped with coniferous and deciduous plant material for screening purposes and including earth berms, depending on the topographic characteristics of the area.

PRELIMINARY PLAN: A plan of a proposed subdivision, drawn to scale, showing approximate measurements, the location of lots, streets, utility easements, north point, scale and such other information as may be required by the city planning commission.

REGISTERED ENGINEER: A professional engineer registered to perform engineering services in the state of Utah.

REGISTERED LAND SURVEYOR: A professional land surveyor registered to perform land survey services in the state of Utah.

REGISTERED LANDSCAPE ARCHITECT: A professional landscape architect registered to perform landscape architectural services in the state of Utah.

STREET, COLLECTOR: A street designated in a subdivision that collects internal traffic movements from minor streets within a large subdivision and connects such areas with the arterial street system.

STREET, MAJOR: A street or road designated as a principal thoroughfare or major arterial on the city street plan.

STREET, MINOR: Any dedicated street serving as a principal means of access to property, intended to serve the local needs of the neighborhood.

SUBDIVIDER: Any person, firm, corporation, partnership, association or other entity which causes land to be subdivided into a subdivision for himself or others.

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 or all other plans, terms and conditions. It shall include: a) the division or development of land, whether by deeds, metes and bounds description, devise and testacy, lease, map, plat or other recorded instrument; and b) the division or development of land for all residential and nonresidential use, including land used or to be used for commercial, agricultural and industrial purposes. (Ord., 8-17-1994) !DEFEND!

Utah Code Annotated section 10-9a-103 defines "subdivision" as:

*(52) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be divided into two 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.*

*(b) "Subdivision" includes:*

*(i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and*

*(ii) except as provided in Subsection(52)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.*

*(c) "Subdivision" does not include:*

*(i) 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 land use ordinance;*

*(ii) 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 applicable land use ordinances;*

*(iii) 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;*

*(iv) 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 land use ordinance;*

*(v) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels; or*

*(vi) a parcel boundary adjustment.*

*(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection(52)as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance.*

If the city desires to amend their definition, please specify. Also, please be sure the provisions are applicable to the city.

Response: **Please amend to match state definition.**

## CHAPTER 3

### PLANS AND PLATS

#### SECTION:

- 11-3-1: Plans And Plats Required
- 11-3-2: Approval Process For Proposed Subdivision
- 11-3-3: Concept Plan; Preapplication Procedure
- 11-3-4: Preliminary Plan; Conditional Approval
- 11-3-5: Final Plat Requirements
- 11-3-6: Amendment to Final Plat

#### 11-3-1: PLANS AND PLATS REQUIRED:

Before any subdivider shall transfer or contract for the transfer of or offer to transfer any subdivisions of land, or any part thereof, which is laid out wholly, or partially, within the corporate limits of the city, such subdivider shall file a concept plan, preliminary plan and final plat of a subdivision, together with detailed plans and specifications for all required improvements and appurtenances thereto with the planning commission and obtain the approval, conditional approval and final approval thereof as hereinafter provided. (Ord., 8-17-1994)

#### 11-3-2: APPROVAL PROCESS FOR PROPOSED SUBDIVISION:

The following approval process must be followed in order to obtain approval of a subdivision:

A. Obtain Copy Of Legislation: The subdivider should obtain a copy of this subdivision title from the city ~~clerk~~/recorder.

For consistency, suggest omission of strikeout text, such appearing throughout. Agree?

Response: Yes   X  , No       , or change as follows:

B. Concept Plan: Subdivider may prepare a concept plan of the proposed subdivision if feedback from the planning commission is desired,

incorporating all information required in this title. The subdivider shall meet with the planning commission for review of the concept plan. The planning commission shall approve, approve with modifications or disapprove the concept plan.

### C. Preliminary Plan:

1. Submittal: Subdivider shall submit a preliminary plan for consideration by the planning commission according to the Development Process Flowchart found in the Preliminary Plan Application and Checklist.

### 2. Planning Commission Decision:

a. After review and approval by the technical review committee, the planning commission shall approve, disapprove or approve with modifications, the preliminary plan. If the planning commission disapproves a preliminary plan, no further action by any officer or by the city council shall be necessary to make such disapproval final. The subdivider may appeal to the city council any planning commission decision. (Ord., 8-17-1994)

b. Conditional approval by the planning commission shall be deemed as an expression of approval to the layout submitted and to general lot arrangement and street and other public right of way location. (Ord. 2006-13, 12-21-2006)

### 3. Approval Period:

a. Conditional approval of any preliminary plan or part thereof, shall expire and become ineffective for all purposes one year after the date of city council approval unless: 1) the plans and specifications and details required in this title for the improvements required for all or part of the project have been submitted to and approved by the city engineer; 2) the final plat for record has been submitted and approved; and 3) such improvements have been placed under contract and actually commenced. For a phased project, the preliminary approval shall expire if a 1-year period passes without a final plat application being submitted or without construction progressing for a particular phase. Once that phase within the overall development is completed and recorded, a new final plat for recording must be submitted for review within a 1-year time period to prevent the existing preliminary plan from expiring.

b. (1) The planning commission may, however, grant one extension of conditional approval as it deems necessary, with the period of such extension not to exceed six (6) months, upon the subdivider showing in writing undue hardship or practical difficulty on the part of the

subdivider.

(2) One or more extensions of conditional approval beyond the time allowed by subsection C3b(1) of this section may be granted by the city council; provided, that each such extension shall not exceed six (6) months.

(3) Provided, however, if a development agreement or similar instrument regarding the subdivision has been entered into by the city and the subdivider, the planning commission shall not grant any extension under subsection C3b(1) of this section. In all such cases, only the city council may grant an extension of conditional approval. If the city council grants an extension, the development agreement or similar instrument shall be amended to provide for different expiration and other times consistent with the extension of conditional approval.

c. Action by the planning commission shall be noted on the preliminary plan, referenced and attached to any conditions specified. Executed copies of the preliminary plan shall be distributed as follows:

- 1 24"x36" copy to the city ~~clerk~~/recorder
- 1 24"x36" copy to the city council.

D. Final Plat:

1. Submission: After approval of the preliminary plan by the city council, the subdivider shall prepare and submit a final plat for consideration of the planning commission, according to the Development Process Flowchart found in the Final Plan Application and Checklist.

2. Conformance: The final plat submission of a subdivision shall contain all requirements stipulated in the preliminary plan as conditionally approved, and if desired by the subdivider, may constitute only that portion or phase of the preliminary plan which is proposed for recording and developing at the time; provided, however, that such portion conforms to all the requirements of this title.

3. Submittal Of Information: Application for approval of the final plat of a subdivision shall be submitted according to the Development Process Flowchart located in the Final Plan Application and Checklist.

4. Decision Of Planning Commission: After review and approval by the technical review committee, the planning commission shall approve, disapprove or approve with modifications, the final plat.

5. Submittal To City Council: Upon approval, the planning commission shall submit the final plat to the city council with its recommendation.

6. Prior to the final approval by the city council:

a. The subdivider shall have received approval from the planning commission, the city engineer, and the county board of health.

b. The subdivider shall also satisfy all the requirements of the Final Plat Application and Checklist, and of this title relating to guarantee of construction of off site and on site improvements, water and restrictive covenants.

c. The subdivider shall comply with any other reasonable requirements of the planning commission or city council.

d. The subdivider shall tender payment of the recording fees charged by the county recorder for recording the plat.

7. Decision Of City Council: The city council shall approve or disapprove the final plat after its next public meeting.

8. Recording: The final plat, if approved, shall be recorded with the county recorder by the city ~~clerk~~/recorder, provided that the appropriate amount of water shares have been deeded to the city and that all other requirements for final plat recording have been met.(Ord., 8-17-1994)

#### 11-3-3: CONCEPT PLAN; PREAPPLICATION PROCEDURE:

A. Submittal: Prior to the filing of an application for conditional approval of a preliminary plan, the subdivider may submit to the planning commission a concept plan of a subdivision, along with other data as described herein.

B. Purpose: The purpose of the concept plan and preapplication procedure is to provide the subdivider an opportunity to meet with the planning commission for advice and assistance and to consult early and informally with the planning commission before preparation of a preliminary plan and before formal application for its approval.

C. Notice Of Planning Commission Decision: At its next regularly scheduled meeting after receiving the concept plan and required supplementary data, the planning commission shall inform the subdivider that the plans and data as submitted, or as modified,

complies with the requirements of this title, or fails to comply and shall approve, disapprove or modify said concept plan. In the case of disapproval, the commission shall state in writing its reasons for such disapproval.

D. Plan Information Required: Preapplication concept plans shall include all items listed in the Concept Plan Application and Checklist.

(Ord. 2006-13, 12-21-2006)

#### 11-3-4: PRELIMINARY PLAN; CONDITIONAL APPROVAL:

Following the approval by the planning commission of a concept plan of a subdivision as established in section 11-3-3 of this chapter, a subdivider may prepare a preliminary plan of a subdivision, together with improvement plans and other supplementary material as specified in the Preliminary Plan Application and Checklist.

#### 11-3-5: FINAL PLAT REQUIREMENTS:

Final plat submission requirements shall include all items found in the Final Plan Application and Checklist. Approval of the final plat by the Planning Commission and the City Council authorizes the builder to begin the work identified in the preliminary and final plans.

#### 11-3-6: AMENDMENT TO FINAL PLAT:

The city reserves the right to require a developer or builder to amend a final plat for record, before or after recording, in the event it is discovered that errors have occurred in meeting the requirements of this title relative to preliminary and final plats.

### CHAPTER 4

#### IMPROVEMENTS REQUIRED

##### SECTION:

- 11-4-1: Required Submission And Approval Of Plans And Specifications
- 11-4-2: Subdivision Improvements Before Recording of Final Plat
- 11-4-3: Subdivision Improvements After Recording of Final Plat
- 11-4-4: Additional Requirements Of Posted Security
- 11-4-5: Approval Of Planning Commission Required
- 11-4-6: City Council Approval Of Plat For Record
- 11-4-7: Engineering Drawings, Easement And Street Dedication
- 11-4-8: City Council Acceptance Of Dedication; Title Verification



#### 11-4-9: Conditions For Issuance Of Building Permit

#### 11-4-1: REQUIRED SUBMISSION AND APPROVAL OF PLANS AND SPECIFICATIONS:

Separate plans and specifications, including all necessary details, profiles and cross sections for each improvement and meeting the minimum standards, must be submitted to and approved by the city engineer as outlined in the final plat application and checklist. Approval must also be obtained by the planning commission and city council prior to the installation or construction of each such improvement. (Ord., 8-17-1994)

#### 11-4-2: SUBDIVISION IMPROVEMENTS BEFORE RECORDING OF FINAL PLAT:

No subdivision improvements shall commence until the final plat improvement plans and specifications have been approved in accordance with section 11-4-1 of this chapter. The developer may begin construction prior to recording of the final plat in accordance with the requirements in this section and in 11-4-4.

A. Once all improvements have been installed, the city engineer shall certify that all of the improvements required in this title have been installed in the streets shown on the plat in accordance with the requirements of this title.

B. If not all improvements are installed, after the certification of the city engineer as to the improvements which have been installed, such plat may nevertheless be approved for recording purposes for accepting the dedication of any streets thereon, provided the following procedure has been complied with by the subdivider with respect to such other improvements:

1. Cash Escrow: After approval by a majority vote of all the members of the city council, funds in an amount of one hundred percent (100%) of the amount deemed by the city engineer sufficient to pay the cost and expense of all improvements not installed are placed on deposit with a regulated financial institution located in the state for the purpose of the installation of such improvements by the city at such time as the council may determine. The subdivider may install the improvements in accordance with the performance agreement, executed by the subdivider in a form satisfactory to the city attorney and approved by city council.

#### 11-4-3: SUBDIVISION IMPROVEMENTS AFTER RECORDING OF FINAL PLAT:

Except as permitted by section 11-4-2 of this chapter, no public improvements shall be done on the project until water right have been deeded to the city, the final plat is recorded, all bonding is in place, and a pre-construction meeting is held. All improvements must be installed in the subdivision in accordance with the final plan application and checklist, as well as the construction and development standards.

#### 11-4-4: ADDITIONAL REQUIREMENTS OF POSTED SECURITY:

##### A. Estimate Required; Withdrawal Of Funds:

1. The subdivider shall furnish an estimate of the cost of construction of required improvements to aid the city engineer in determination of improvement costs. Said cost estimate shall be reviewed and approved by the city engineer. Following approval, the subdivider shall obtain the performance guarantee for the appropriate amount.

2. Said funds may be withdrawn in the same proportion as the completion of the improvements bears to the project.

B. Duration: The duration of the performance guarantee shall be for two (2) years from the date of issuance of the performance guarantee. An extension of time may be granted by the city council upon application by the subdivider, provided such application is submitted at least sixty (60) days prior to the expiration of the two (2) year time period.

##### C. Default:

1. In the event the subdivider defaults or fails or neglects to satisfactorily install the required improvements within one year from the date of posting the performance guarantee regarding the final plat, the city council may declare the performance guarantee forfeited, to the extent required to satisfy the default, and the city may use the assurance towards completion of the required improvements.

2. In the event the subdivider is found to be in default or fails to or neglects to satisfactorily install the required improvements, it shall be unlawful for any person to receive any further building permits within the subdivision until all improvements are installed and accepted by the city council, or a formal extension is granted by the city council and a new agreement is signed. (Ord. 1999-01, 11-17-1999)

3. In the event that the city determines that a minimum level of

improvements have been installed to meet basic public health and safety concerns, such as streets, water, drainage and other utilities, then in that event, the city may, in its sole discretion, issue a building permit; provided, that the applicant/property owner executes an acknowledgment and waiver in a form satisfactorily to the city attorney, acknowledging that all improvements have not been finally installed and waiving all claims against city. (Ord. 2003-08, 12-10-2003)

D. Final Inspection And Release: The subdivider shall be responsible for the quality of all materials and workmanship. At the completion of the work but in no case more than one year from said date or not less than ten (10) days prior to the release date of the bond, the city engineer shall make a preliminary inspection of the improvements and shall submit a report to the city council stating whether the conditions are found to be satisfactory. Following a satisfactory report, the city council may release the bond subject to the requirements of subsection F of this section. If the condition of the improvements shows premature depreciation or defects or does not comply with the specifications of the city, the city council may declare the subdivider in default.

E. Posting Of Assurance: All performance guarantees submitted to the planning commission and city council shall, upon approval by both bodies, be posted with the city ~~clerk~~ recorder, which shall be done before recording of the final plat. Should the instrument require recording, the city ~~clerk~~ recorder shall record the same with the county recorder and the subdivider shall pay all costs for the bond or other assurance.

F. Durability Retainer:

1. An improvements durability guarantee, in the amount of not less than ten percent (10%) of the initial amount of the engineer's estimate, shall be retained by the city for a period of not less than one (1) year following the date of final acceptance of the improvements by the city. The retainage shall be for the purpose of guaranteeing the improvements. If, during the one (1) year period, the durability of said improvements is found to be satisfactory, the retainage shall be released following the normal procedure for release of posted security. If, however, during said period, any required improvement fails or shows unusual depreciation, or if it becomes evident that certain work was not completed, or that the materials or workmanship used in constructing the improvements do not otherwise comply with accepted standards of durability, said condition shall be corrected by and at the expense of the person giving the performance guarantee. If the corrections are not made within a reasonable time, the city council shall declare such person

in default and use the retainage to defray the cost of any required work. Costs in excess of the durability retainage remain the responsibility of the person or entity for whom the performance guarantee was given.

2. In the event the subdivider is found to be in default, it shall be unlawful for any person to receive any further building permits within the subdivision until all corrections have been made and accepted by the planning commission and city council, or a formal extension is granted by the city council and a new agreement is signed.

3. Part or all of the performance guarantee will be retained unless brush, tree stumps, branches and other debris which are the result of the subdivider or its agents, but not subsequent builders, are removed. (Ord. 1999-01, 11-17-1999)

#### G. Inspection Fees

1. An inspection fee, in the amount of not less than six percent (6%) of the initial amount of the engineer's estimate, shall be retained by the city for the duration of the construction period. The retainage shall be for the purpose of paying for inspections that occur throughout the construction process. If, after construction is complete and all inspection services have been paid for, there is still a remaining balance of the original inspection fee, the retainage shall be released following the normal procedure for release of posted security. If, however, after said period, the amount required to pay for all inspection services exceeds that of the original amount, the subdivider shall pay the remaining balance required to cover all inspection services of the project.

#### 11-4-5: APPROVAL OF PLANNING COMMISSION REQUIRED:

No final plat for recording or dedication shall be accepted by the city council until it has been finally approved by the planning commission.

#### 11-4-5: APPROVAL OF FINAL PLAT FOR RECORDING:

The final plat for recording, when approved by the planning commission and city council, shall have such approval endorsed thereon. The final plat for recording, after appropriate approval of the planning commission and city council with acknowledgment, shall be filed by the city at the county recorder's office. All fees required in connection with the recording of such map or plat shall be paid by the subdivider. (Ord., 8-17-1994)

#### 11-4-7: ENGINEERING DRAWINGS, EASEMENT AND STREET DEDICATION:

None of the improvements required by this chapter shall be installed or constructed and no construction work relative thereto shall be performed until after:

A. Engineering Drawings: Engineering drawings, including agreement to comply with street profiles adopted by the city, and other pertinent data required by the city engineer regarding on and off site improvements, have been approved by the city engineer.

B. Compliance: The subdivider has shown compliance with the provisions of section 11-4-3 of this chapter.

C. Easements: Appropriate easements are granted to the city in form approved by the city attorney, accepted by the city council and caused to be filed for record by the city ~~clerk~~ recorder, at the subdivider's expense. The acceptance of such easements shall bind the city only as to the location, width and termini of any proposed streets or other public places, with which such easements are coterminous, and shall not be construed as an acceptance of dedication of any proposed streets or other public place. Easements acceptable to the city must be recorded with the Utah County Recorder's office prior to any recording of a final plat in which the easement is pertinent. (Ord., 8-17-1994)

#### 11-4-8: CITY COUNCIL ACCEPTANCE OF DEDICATION; TITLE VERIFICATION:

A. Ordinance Accepting Dedication: After a plat for record has been approved for recording purposes only and has been so recorded, and after all of the specified improvements have been completed to the satisfaction of the city council and with the advice and approval of the city engineer, the city council may enact an ordinance accepting the dedication of the streets, roads, parks, open space or other public spaces. The city council shall also authorize the entering upon said plat appropriate clauses evidencing the acceptance of dedication.

B. Conditioned Upon Title Report: Such acceptance shall be conditioned upon the subdivider furnishing to the city a preliminary title report in a form approved by the city attorney. Said title report shall cover all lands to be dedicated for public use and show title to the city will be free and clear of any easements, taxes, liens, assessments or other encumbrances of any kind whatsoever, except the easements required by this title. (Ord., 8-17-1994)

#### 11-4-9: CONDITIONS FOR ISSUANCE OF BUILDING PERMIT:

No building permit shall be issued for any lot in the subdivision by the building official prior to recording of the final plat and the completion of all the improvements required by and as specified in section 11-4-1 or 11-4-3 of this chapter. Exceptions to this rule shall be in compliance with Section 11-4-4 of this chapter. (Ord., 8-17-1994)

### CHAPTER 5

#### DESIGN STANDARDS

##### SECTION:

- 11-5--1: General Standards
- 11-5--2: Streets
- 11-5--3: Easements
- 11-5--4: Building Lines And Setback Lines
- 11-5--5: Lots
- 11-5--6: Survey Monuments
- 11-5--7: Hillside Development
- 11-5--8: Fire Hydrants
- 11-5--9: Utilities
- 11-5-10: Non-motorized Trails, Hiking Paths, And Walkways

#### 11-5-1: GENERAL STANDARDS:

The following design standards are intended as a guide to sound land planning. Should there be unusual topographic or property problems, these standards may be modified to greater or lesser conformance at the discretion of the planning commission. In general, every subdivision shall conform to the requirements and purposes of the general plan or any parts thereof, the zoning ordinance, and other ordinances adopted by the city. (Ord., 8-17-1994)

#### 11-5-2: STREETS:

##### A. Layout:

1. The arrangement, character, extent, width and location of all streets shall conform to the general plan and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served

by such streets.

2. The layout of proposed streets shall provide for the continuation of existing streets in surrounding areas and/or shall conform to a plan for the neighborhood approved by the planning commission in cases where topographical or other conditions preclude the continuation of existing streets. In general, such streets shall be of a width as great as that of the street so extended or wider if necessary to conform to existing regulations. Due consideration shall be given to traffic safety. Streets shall be laid out so as to discourage their use by through traffic to obtain the maximum livability and amenity of the subdivision.

B. Major Streets: Where the subdivision abuts or contains an existing or proposed major street, the planning commission may, at its discretion, require the construction of marginal access streets, double frontage of lots with provision of a planting screen contained in a no access reservation along the rear property lines, or other treatment which the planning commission considers essential for adequate protection of residential lots.

C. Private Streets: Private streets may be permitted; otherwise, all streets shall be dedicated to the public. Public streets shall not be gated, although permanently welded open gates may be approved as an architectural enhancement by the planning commission and city council. Private streets become the responsibility of the developer and/or the HOA for maintenance, snow removal, upkeep, etc.

D. Access To Property: Each residential lot within a subdivision shall be provided with a satisfactory means of access. Building permits shall not be issued for the construction of buildings on lots within a subdivision which do not have access onto a public street. There shall be no reserve strips controlling access to a street except where the control is definitely placed with the city council. No public street shall be gated (except on City property where the City Council determines the necessity for public welfare). Private streets may be gated as allowed by the zoning ordinances with exception granted by the planning commission and city council.

E. Half Streets: Half streets shall not be permitted, except in cases where there exists an adjacent subdivision with an existing dedicated half street. Only in those instances will the half street be allowed to make the adjacent street complete.

F. Dead End Streets: Dead end streets shall be permitted only in cases where the planning commission is of the opinion that there is a reasonable expectation that such street will be extended to a suitable outlet when the adjacent property is platted. If the

planning commission permits the platting of dead end streets with the expectation of such future expansion, the commission shall determine whether the subdivider shall provide a temporary turnaround at the closed end of the street.

G. Street Names: New street names shall not duplicate those names already in use. A street, obviously a continuation of a street already in existence, shall bear the same name.

H. Relations To Adjoining Streets: The arrangement of streets in new subdivisions shall make provision for the continuation of existing streets in adjoining areas. Where the planning commission determines that it is desirable to provide an orderly development of a street system, proposed streets shall be extended by dedication to the boundary of such property along with improvements of said street.

I. Road Construction Standards: New roads shall comply with the current construction standards and specifications of the city.

#### 11-5-3: EASEMENTS:

[Ord. 109.03](#)

Easements shall be provided on each side of all rear lot lines of not less than eight feet (8') in width for public utilities and elsewhere as may be required. (Ord., 8-17-1994)

#### 11-5-4: BUILDING LINES AND SETBACK LINES:

[Ord. 109.04](#)

Building and setback lines shall conform to the requirements of the zoning ordinance in Section 10-8-5. (Ord., 8-17-1994)

#### 11-5-5: LOTS:

[Ord. 109.05](#)

A. Building Sites: The lot arrangement, design and shape shall be such that lots will provide a compact body of land for buildings and be properly related to topography and conform to requirements set forth herein. Lots shall not contain peculiarly shaped elongations, solely to provide necessary square footage, which would be unusable for normal purposes. Flag lots shall not be permitted. All lots must have full required frontage along the roadway.

B. Lot Sizes: Each lot shown on the preliminary plan and final plat must conform to the minimum requirements of the zoning ordinance for the zone in which the lot is situated. Excessive width of a lot in relation to the depth shall be avoided to the extent possible.



C. Corner Lots: Corner lots shall have dimensions sufficient for the maintenance of required building setback lines on both streets, along with sufficient area to comply with area requirements of the zoning ordinance. Generally, corner lots should be larger than typical subdivision lots.

D. Side Lot Lines: Side lot lines shall be approximately at right angles to street lines unless, in the opinion of the planning commission, a variation from this rule will give a better street and lot plan.

E. Lots Must Abut On Public Streets: Each lot shall abut on a street dedicated by the plat or an existing dedicated street which meets the minimum width requirements. A dedicated street must be fully improved.

F. Parts Of Lots: All remnants of lots below minimum size, left over after subdividing a larger tract, must be attached to adjacent lots, and evidence of such attachment submitted to become effective on approval of the final plat.

G. Lot Layout In Planned Unit Developments: Where a planned unit development is proposed in the city, lot sizes may vary from traditional zoning regulations. Therefore, they shall meet the zoning ordinance requirements applicable to planned unit developments. (Ord., 8-17-1994; **amd. 5-10-1995**)

11-5-6: SURVEY MONUMENTS:  
[Ord. 109.06](#)

The installation of survey monuments in accordance with the city construction standards and specifications shall be required. (Ord., 8-17-1994)

11-5-7: HILLSIDE DEVELOPMENT:  
[Ord. 109.07](#)

Refer to the Construction and Development Standards.

11-5-8: FIRE HYDRANTS:

Fire hydrants shall be installed in accordance with the construction standards and specifications for the city. (Ord., 8-17-1994)

#### 11-5-9: UTILITIES:

A. Standards and Specifications: All utilities shall be designed and installed in accordance with the construction standards and specifications for the city.

B. Underground: All utilities shall be placed underground within street rights of way or other established easements.

#### 11-5-10: NON-MOTORIZED TRAILS, HIKING PATHS, AND WALKWAYS:

A. Purpose of the Trail System: The purpose of establishing a trail system is to have a uniform community plan consisting of trails, paths and walkways for the residents of the city to use in their daily recreational activities to promote the health and well-being of city residents. It is intended for there to be a city-wide shared trail system, to the degree possible, for all city residents to use. The Planning Commission and City Council shall identify city plats (preliminary and final) where trails and walkways are to be incorporated into the city trail system. See the Trails section in the General Plan for further guidance.

#### B. Definitions:

1. Trails and Walkways - Consist of some type of hard surface, usually asphalt, on which to walk, run or bicycle. Walkways are synonymous with trails.
2. Natural Surface Trail- A trail with a surface other than a hard surface of asphalt or concrete, usually dirt, that serves the purpose of passive recreation activities such as hiking, mountain biking, snowshoeing, cross country skiing or equestrian activities.
3. Motorized Vehicle - Any type of motorized vehicle, ATV, UTV, etc. or any means of transportation that is propelled by an electrical or gasoline motor.
4. Litter - Any wrapper, food or water covering, paper product, organic commodity
5. Animal - Any non-human living creature

#### C. Prohibitions:

1. It is prohibited to use any type of motorized vehicle on trails

or walkways except with city approval for events, emergency or maintenance purposes or if used by a person who has mobility disabilities.

2. It is prohibited to litter along any trail, natural surface trail, path or walkway. Whatever material you bring with you must be taken out with no litter left along the trail.
3. Any animal must have a leash attached at all times and must be controlled by the person holding the leash.
4. Any animal defecation on or off any trail, natural surface trail or path must be picked up and carried out by the person in charge of the animal.

D. Penalties: Any person violating any of the prohibitions mentioned in Section C of this chapter will be charged with a Class C Misdemeanor subject to a fine of up to \$750.

E. Trails in Subdivisions: To the degree possible, trails and walkways will be incorporated into subdivision developments, particularly along collector and local roads as defined in the general plan. Natural Surface Trails are also to be considered but are less desirable as their use is more specialized and more restricted in nature. Developers must demonstrate that they have given consideration to connecting trails and walkways between different subdivisions or within the same subdivision that is developed in phases to ensure a uniform and consistent flow to the trails and walkways in a particular area of the city.

F. Maintenance of Trails and Walkways: Where trails and walkways are on common ground within a subdivision, easements shall be granted to the city in order for the city to take over the maintenance of the trail and to provide access to all city residents. If a particular Homeowners Association wants to maintain a trail or walkway in their subdivision, an arrangement shall be agreed to by the HOA and the city council for them to do so.

G. Development and Construction Standards: Trails and walkways are to be constructed according to the city Development and Construction Standards. Any exceptions to this must be approved by the Planning Commission and City Council.

## CHAPTER 6

### FEES AND SPECIAL CONSIDERATIONS

#### SECTION:

11-6-1: Cost Responsibility In Connection With Development Of Subdivision

11-6-2: Special Considerations

#### 11-6-1: COST RESPONSIBILITY IN CONNECTION WITH DEVELOPMENT OF SUBDIVISION:

A. Cost Assignments Schedule: Costs and charges in connection with the planning and development of a subdivision in the city shall be shared between the subdivider and the city according to the following schedule:

Plan Or Facility	Subdivider	City
Preliminary plan	100 percent	0 percent
Final plat	100 percent	0 percent
Easements and rights of way, both on and off site	100 percent	0 percent
Grading and draining of streets, trails and walkways	100 percent	0 percent
Bridges and culverts, pressure reducing stations	Special negotiations with city	Special negotiations with <u>city subdivider</u>
Street paving and improvements to trails and walkways	100 percent on site; off site to be negotiated	0 percent on site
Street signs	100 percent	0 percent
Water rights and supply	0.90 acre feet per lot, except originally platted	0 percent
Water mains and connection to lots of 1 inch polyethylene line with water meter box	100 percent for mains up to and including 6 inches in diameter	Negotiations for mains in excess of 6 inches in diameter
Sewage disposal	Special negotiations with city	Special negotiations <u>with subdivider</u>
Electric utilities	100 percent	0 percent
Survey monuments	100 percent	0 percent
Environmental hazards	100 percent	0 percent

Plan Or Facility	Subdivider	City
<b>Mountain Fuel</b>	100 percent	0 percent

!SETLRM!!SETFNT!!SETTAB!

(Ord., 8-17-1994; amd. Ord. 2006-13, 12-21-2006)

Suggest omission of ~~strikeout~~ text and inclusion of underlined. Agree?

Response: Yes   X  , No       , or change as follows:

Is the reference of Mountain Fuel correct, as opposed to Questar Corporation?

Response: Yes, leave as is        , or change as follows: **Change to say Dominion Energy**

B. Impact Fees: Applicable fees for the costs of capital improvements required to accommodate impact producing development and reasonably benefitting the development shall be enacted by the city council pursuant to the **city impact fee procedural ordinance** and shall be imposed and paid as provided by such enactment.

The city has enacted a transportation impact fee as specified in title 9, article 2A of this workbook; however, such does not address water service development fees. In any event, please be sure this legislation reads as desired by the city officials and that the impact fee amount is still accurately stated.

Also, the city may desire to adopt a specific impact fee ordinance relative to water service and development.

Response: **Impact Fee language has been added to this code in Section 9-2B & 9-2C**

C. Fees Charged Subdivider For Preliminary Plan And Final Plat: The preliminary plan and final plat shall be accompanied by fees as set from time to time by resolution of the city council. (Ord. 1999-01, 11-17-1999)

11-6-2: SPECIAL CONSIDERATIONS:

A. Extension Of Utility Policy: When the subdivider is required to install a water line or other utilities that will benefit future development, the city will establish a rebate fee at the time the improvements are placed on a per foot of frontage basis. When other lots are developed within a ten (10) year period, the original subdivider shall be entitled to receive the per foot rebate as established at the time the improvements were made.

This subsection A conflicts with the legislation contained in chapter 8 of this title. As such, should this subsection be omitted?

Response: ☒ Yes; ☐ No (please explain)

4. Standards And Specifications: Whenever the provisions of this title require improvements to be installed in subdivisions in accordance with the city construction standards and specifications, said standards and specifications shall be the standards and specifications last adopted by resolution by the city council and in force at the time of approval of the final plat. Said standards and specifications may be examined at the office of the city ~~clerk~~ recorder during regular office hours. (Ord., 8-17-1994)

## CHAPTER 7

### VARIANCES

#### SECTION:

11-7-1: Hardship And Conditions For Granting Variances

11-7-1: HARDSHIP AND CONDITIONS FOR GRANTING VARIANCES:

Is this correct that the variances are granted by the planning commission, as opposed to the board of adjustment?

Response: Yes, leave as is ☒ , or change as follows:

A. Specified: The planning commission may permit variances from the

minimum standards after receiving the recommendation of the city engineer as to the proposed variance. The planning commission, in granting such permission, and the city engineer in making a recommendation, shall base their decision and recommendation upon their determination that such variance will not have the effect of nullifying the intent and purposes of the general plan or this title; provided, however:

1. The planning commission shall require such additional conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.

2. The improvement under the proposed variance from the minimum standards will be equally as effective, safe, adequate and desirable as the improvement would be under such standards, and that the improvement under the proposed variance will perform the same function as and have a life or usefulness equal to the improvement made pursuant to such standards; or

3. The strict application of the minimum standards to improvements which are under construction or which have been fully planned and contracted for at the time this section becomes effective would cause extreme undue hardship or practical difficulty; provided, however, that no variance shall be approved that is not in harmony with the general purpose and intent of this title or will interfere with the public health, safety or general welfare.

B. Intent: It is the intent of this section that variances be granted only in cases of extreme hardship, and that only minor variances be granted if a clear hardship can be shown by the subdivider. The findings shall be supported by facts which are made a part of the record of the planning commission when a variance is granted. Economic hardship shall not be deemed a sufficient reason for granting a variance. (Ord., 8-17-1994)

## CHAPTER 8

### REIMBURSEMENT FOR ON SITE OR OFF SITE IMPROVEMENTS

#### SECTION:

#### 11-8-1: Reimbursement For On Site Or Off Site Improvements

#### 11-8-1: REIMBURSEMENT FOR ON SITE OR OFF SITE IMPROVEMENTS:

A. Reimbursement Permitted: A developer of land within the city, including the developer's legal successors in interest to the land to be developed (collectively, the "original developer"), shall be entitled to reimbursement for eligible on site and off site improvements and facilities required to be constructed and installed by the original developer as a condition to development approval, including, without limitation, culinary water, sanitary sewer and storm drainage improvements, roads and related facilities. For the purpose of this section, "eligible on site and off site improvements" are defined to be improvements and related facilities constructed and installed by the original developer: 1) which will benefit lands serviceable by said improvements and related facilities; and 2) which



are designed, sized and constructed with capacity beyond that required to serve the original developer's development project, as determined by the city engineer ("eligible improvements").

B. Procedures: The original developer shall be entitled to recover from any landowner of property which is benefited by the eligible improvements (each property is herein referred to as a "benefited property"), the benefited property's pro rata share of the original developer's actual cost of designing, constructing and installing the eligible improvements, plus accrued interest as provided in subsection B3a(3) of this section, subject to and in conformance with the following:

1. Terms: The original developer shall be entitled to reimbursement from any benefited property, for a period of thirty (30) years after the final functioning installation of the eligible improvements for all eligible improvements, except roads, for which the right to reimbursement shall be for a period of twenty (20) years after the final functioning installation of the roads, or until the available capacity in the eligible improvements is fully utilized and the original developer has been fully reimbursed pursuant to this section, whichever comes sooner (the "reimbursement period"). The reimbursement period may be extended at the request of the original developer, upon approval of the city council.

2. Payment Required: The benefited property shall be required to pay the amount of reimbursement due pursuant to this section as a condition to receiving the service to be provided to the benefited property's property through the eligible improvements for which reimbursement is due.

3. Reimbursement Application: As a condition to reimbursement, the original developer shall be required to submit an application for reimbursement ("reimbursement application") for each property benefitted by the eligible improvements. For properties that will benefit from the eligible improvements, the city shall not approve any plat, plat change or plat amendment without an approved reimbursement application for any development project which is to be benefitted by the eligible improvements.

a. Information Required: The reimbursement application shall include the following information:

(1) A description of the property which is to be benefitted by the eligible improvements and the basis of the benefit to be received by the benefited property;

(2) A description of the eligible improvements which will benefit

the benefited property's development project;

(3) An engineer's written statement of the actual cost of design, construction and installation of the eligible improvements for which reimbursement is sought.

(4) An engineer's estimate of the pro rata amount of reimbursement due and owing by the benefited property to the original developer, including accrued interest at the determined rate.

b. Sufficient Information: The sufficiency of the information contained in the reimbursement application shall be reviewed and accepted by the city engineer as a condition to acceptance approval of the reimbursement application.

c. Filing: A reimbursement application shall be filed with the city engineer prior to the benefited property obtaining final plat approval or, in the case of a development proceeding pursuant to a site plan, prior to the issuance of a building permit.

d. Approval Authority: The city engineer shall have authority to approve any reimbursement application.

4. Amount Of Reimbursement: The amount of reimbursement due from each benefited property pursuant to an approved reimbursement application shall be collected by the city in conformance with the following:

a. Notice: Upon approval of the reimbursement application by the city engineer, the city engineer shall send written notice to each benefited property affected property with a copy to the original developer described in the reimbursement application from whom reimbursement is required to be paid, setting forth the amount of reimbursement that is due and payable from the benefited property (the "reimbursement amount").

b. Collection: The reimbursement amount shall be collected by the city from the benefited property, in full, at the time of and as a condition to: 1) in the case of a subdivision approval, final plat recordation for a subdivision in the benefited property's development project; or 2) in the case of a site plan approval, the issuance of the building permit. All city development approvals required to be obtained by a benefited property, including, but not limited to, subdivision and site plan approvals, shall be conditioned upon and subject to payment in full of any reimbursement amount determined to be due and owing as provided in this section.

c. Administrative Fee: The city may deduct from the reimbursement amount, a reasonable administrative fee sufficient to cover costs

and expenses incurred by the city in the processing of the reimbursement application and the collection and remittance of the reimbursement amount.

d. Remit: Upon receipt of the reimbursement amount due and owing from a benefited property, the city shall immediately remit the reimbursement amount collected, less the city's administrative fee, to the original developer.

5. Location Of Original Developer: The city shall not be responsible for locating any assignee or other successor in interest to the original developer who might be entitled to reimbursement pursuant to this section. It shall be the obligation of the original developer to give written notice to the city of any sale, transfer, assignment or other alienation of the original developer's interest in its land and the right to receive reimbursement pursuant to this section. Any reimbursement amount collected and unclaimed after two (2) years from the date said funds are received by the city from a benefited property, shall be returned to the benefited property from which the reimbursement amount was collected, less any administrative fee due and owing; and, in the event the city is unable, for any reason, to return the funds to the benefited property from which the funds were collected, said funds shall be credited to the city enterprise fund corresponding to the eligible improvement for which the funds were collected, as determined by the finance director.

C. Protest And Appeal: A decision of the city engineer on a reimbursement application may be protested and appealed in conformance with the following:

1. Time Limit: The original developer may file a written protest with the city engineer to contest any decision of the city engineer with respect to the original developer's reimbursement application. The protest shall be filed within thirty (30) days of receipt of the city engineer's notice of decision on the reimbursement application. The decision of the city engineer with respect to the original developer's protest may be appealed to the city council for determination.

2. Protest: A benefited property may file a written protest with the city engineer to contest: a) a determination that the benefited property's property will be benefitted by the eligible improvements; and/or b) the reimbursement amount determined to be due and collectible from the benefited property and payable to the original developer pursuant to this section.

a. Time Limit: The protest shall be filed by a benefited property within thirty (30) days from the date of the city's written notice

to the benefited property of the reimbursement amount due. A protest filed by a benefited property pursuant to this section must include documentation sufficient to establish the basis of the protest.

b. Notice: Upon receipt of a written protest, the city engineer shall send written notice of the protest, including a copy of the protest, to the original developer. The original developer shall have thirty (30) days from the date of said notice to submit a written response to the protest.

c. Decision; Appeal: Upon receipt of the original developer's response, the city engineer shall, within a reasonable time, decide the matter. The decision of the city engineer with respect to the protest may be appealed to the **city council** for determination. (Ord. 2013-07, 10-22-2013)

Is the appeal to the city council correct, as opposed to the board of adjustment?

Response: Yes, leave as is \_\_ **X** \_\_ , or change as follows:

## CHAPTER 9

### NATURAL HAZARD AND FLOOD HAZARD STUDY

#### SECTION:

- 11-9-1: Purpose
- 11-9-2: Requirement to Conduct
- 11-9-3: Study Requirements
- 11-9-4: Standards
- 11-9-5: Special Requirements

#### 11-9-1: PURPOSE:

A. This ordinance is adopted in order to protect human life and health and to reduce the potential risk of rock fall, debris flow, land slide, flooding, avalanche, earthquake and other natural hazards.

#### 11-9-2: REQUIREMENT TO CONDUCT:

A. Residential building regulations require a Natural Hazard and Flood Hazard Study be submitted with every application for occupied structures and habitable spaces. With an EXCEPTION of a permit for renovation, remodel, or repair of an existing occupied structure or habitable space, if the proposed application does not expand the footprint or scale of an existing occupied structure or habitable space.

### 11-9-3: STUDY REQUIREMENTS:

- A. Natural Hazards Assessments shall be prepared by a geologist or engineer licensed by the State of Utah who has at least four (4) years of experience in a responsible position in the field of engineering geology. The assessment shall be signed, dated, and stamped by the preparer and include the qualifications of the preparer.
- B. The assessment shall be a site-specific engineering geology study and shall identify all known or suspected potential geologic hazards, originating on-site or off-site, whether previously mapped or unmapped, which may affect the proposed structure or use of land.
- C. The assessment shall identify the degree to which the hazards affect the proposed structure or use of land and recommend mitigation measures to adequately protect persons and property, including occupants and property improvements related to the proposed structures and uses, and to meet the standards of this ordinance.
- D. The assessment shall contain a detailed site map of the subject area showing any site-specific mapping performed as part of the geologic investigation, and including boundaries and features related to any natural or geological hazards, topography, and drainage. The site map must show the location and boundaries of the hazard(s), delineation of any recommended setback distances from hazard(s), and recommended location(s) for structures. Recommended buildable and non-buildable areas shall be clearly identified.
- E. The assessment shall contain trench logs and test pit logs, boring logs, aerial photographs, references with citations, and other supporting information as applicable.
- F. The City Engineer shall determine whether the Natural Hazards Assessment meets the standards of this Chapter. The City Engineer may reject the assessment if the County Engineer finds that the professional geologist or engineer has insufficient training or experience, or if the County Engineer finds that the assessment is insufficient in depth, scope, or detail. The City Engineer may require that a supplemental or revised assessment be submitted.
- G. All recommended mitigation measures identified in the Natural Hazards Assessment shall be incorporated into the design of the proposed structure or use of land. In the event that the Natural Hazards Assessment provides alternative mitigation measures, the applicant shall elect which mitigation measures to implement, and the applicant shall submit a supplemental Natural Hazards Assessment

confirming that the elected mitigation measures are sufficient to adequately protect persons and property and to meet the standards of this ordinance. The applicant shall submit engineered plans for the proposed mitigation measures, which plans will demonstrate how the mitigation measures will be incorporated into the design of the applicable structure or use of land. These plans shall be prepared by a professional engineer who is licensed to practice in the State of Utah and is qualified to develop such plans. The City Engineer may reject the plans if the City Engineer finds that the professional engineer has insufficient training or experience, or if the City Engineer finds that the plans insufficiently describe the proposed mitigation measures or do not meet the other requirements of this Chapter. The City Engineer may require that supplemental or revised plans be submitted.

H. The City Engineer shall determine if the submitted plans sufficiently describe the proposed mitigation measures. Upon the determination by the City Engineer that the Natural Hazards Assessment meets the standards of this Chapter, the City shall issue a clearance which incorporates the uses, structures, and mitigation measures approved by the City Engineer.

#### 11-9-4: STANDARDS:

##### A. General Standard

The mitigation measures identified in the Natural Hazards Assessment shall be sufficient to provide adequate protection to persons and property, including occupants and property improvements related to the proposed structures and uses, and to meet the standards of this ordinance.

##### B. Site Investigation, Hazard Identification and Mitigation Implementations

Occupied structures and habitable spaces, shall not be placed in areas subject to rock fall, debris flow, avalanche, landslides, or surface fault rupture, unless the site for such structure or use of land is investigated in the site-specific Natural Hazards Assessment and it meets the requirements of this Chapter and the mitigation measures identified in the Natural Hazards Assessment are all incorporated into the design of the structure or use of land and implemented. If the Natural Hazards Assessment finds that no mitigating measures are needed, then no mitigating measures are required.

##### C. No Covering Up

No use, construction, or grading shall be permitted or performed which would conceal, misrepresent, or cause to be unrecognized the

presence of any natural hazard.

#### 11-9-5 SPECIAL REQUIREMENTS:

##### A. Certification by Engineer-Plans

When this Chapter requires the preparation and submittal of engineered plans, such plans shall be prepared by a professional engineer licensed to practice in the State of Utah and who is qualified to prepare such plans through experience and training. The required engineered plans shall bear on it a certification by the engineer that the plans implement all of the recommended mitigation measures. Prior to the City issuing any clearance to commence construction, the City Engineer shall determine if the requirements of this Chapter have been met.

##### B. Certification by Geologist or Engineer

When a Natural Hazards Assessments is required by this ordinance for a structure, the Natural Hazards Assessment shall bear the signed certification of the Utah State licensed geologist or engineer, who has at least four (4) years of experience in a responsible position in the field of engineering geology, that the recommended mitigation measures are sufficient to provide adequate protection to persons and property. Prior to the City issuing any clearance to commence construction, the City Engineer shall determine if the requirements have been met.

## **TITLE 12**

### **STORM WATER**

#### CHAPTER 1

#### GENERAL PROVISIONS

#### SECTION:

- 12-1-1: Purpose
- 12-1-2: Definitions
- 12-1-3: Applicability
- 12-1-4: Administration
- 12-1-5: Conflict

#### 12-1-1: PURPOSE

A. The purpose of this section is to protect the health, safety and welfare of Woodland Hills City and its inhabitants by complying with all aspects of the Stormwater Management Plan (SWMP). Major components of the plan include improving the City's storm sewer system, managing and controlling storm water run-off, protecting property, preventing polluted water from entering the City's storm sewer system and other receiving waters to the maximum extent practicable as required by federal and state law. The objectives of this section are:

1. To regulate the contribution of pollutants to the City's storm sewer system by storm water discharges by any user;
2. To prohibit illicit connections and discharges to the City storm sewer system;
3. To guide, regulate and control the design, construction, use, and maintenance of any development or other activity that results in the movement of earth on land within the City;
4. To minimize increases in non-point source pollution caused by storm water run-off from development which would otherwise degrade local water quality;
5. To reduce the amount of storm water run-off, soil erosion and non-point source pollution, wherever possible, through storm water management controls and to ensure that these management controls are properly maintained and pose no threat to public safety;
6. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance; and
7. To establish a penalty procedure for violation(s) of this code.



8. Establish responsibilities for controlling and managing storm water runoff.

9. Enable the City to comply with State and Federal Laws and Regulations.

#### 12-1-2: Definitions

**BEST MANAGEMENT PRACTICES (BMP):** Physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water.

**CHANNEL:** A natural or artificial watercourse with a definite bed and banks that conducts flowing water continuously or periodically.

**CITY STORMWATER SYSTEM:** The drainage structures, conduits, ditches, combined sewers, sewers, and all device appurtenances by means of which stormwater is collected, transported, pumped, treated, or disposed of.

**COMMUNITY WATER:** Any and all rivers, streams, creeks, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the City or which receive stormwater originating in the City.

**CONTAMINANT:** Any physical, chemical, biological, or radiological substance or matter in water.

**DEBRIS:** Dirt, rock, sand, tree, grass clippings, or other rubbish, litter, etc.

**DESIGN STORM EVENT:** A hypothetical storm event, of a given frequency interval and duration, used in the analysis and design of a stormwater facility.

**DEVELOPED PARCEL:** Developed Parcel shall be all property which is altered from a natural state by grading, paving, compaction, construction of structures, impervious surfaces, or drainage works so that stormwater runoff from the properties is changed in quantity, quality, or point of discharge from that which would occur in its natural condition.

**DISCHARGE:** To dispose, deposit, spill, pour, inject, seep, dump, leak, or place by any means, or that which is disposed, deposited, spilled, poured, injected, seeped, dumped, leaked, or placed by any means including any direct or indirect entry of any solid or liquid

matter into the City Stormwater System.

**DRAIN INLET:** A point of entry, for stormwater, into a sump, detention/retention basin, storm drain pipe, or ditch.

**EQUIVALENT SERVICE UNIT (ESU):** Represents the amount of impervious surface in the average residential lot within the City as adopted by the City Council in a resolution or in the budget when setting rates.

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

**EROSION AND SEDIMENT CONTROL PLAN:** A written plan (including drawings or other graphic representations) that is designed to minimize the accelerated erosion and sediment runoff at a site during or after construction activities.

**GENERAL CONSTRUCTION STORMWATER PERMIT:** A permit required by the Utah Department of Environmental Quality, Division of Water Quality prior to commencing construction of any project within the City.

**HOTSPOT OR PRIORITY AREA:** An area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

**ILLICIT CONNECTIONS:** May be defined as either one of the following:

1. Any drain or conveyance, whether on the surface or subsurface that allows a contaminated or illicit discharge to enter the City Stormwater System.
2. Any Drain or conveyance connected to the City Stormwater System, whether or not such connection results in discharges into that system, which has not been (1) documented in plans, maps, or equivalent records submitted to the City, and (2) approved in writing by the City.

**ILLICIT DISCHARGE:** Any discharge to the City Stormwater System that is not composed entirely of stormwater, stormwater that is being discharged without an approved treatment methodology, and not specifically exempted under this Chapter. Illicit discharges include both direct connections (e.g. wastewater piping either mistakenly or deliberately connected to the stormwater system) and indirect connections (e.g. infiltration into the stormwater system or spills collected by drain inlets).

**IMPERVIOUS SURFACE:** Any hard surface, other than the natural surface,

that prevents or retards the absorption of water into the soil, or that causes water to run off the surface in greater quantities or at a greater rate of flow than the natural surface. Common impervious surfaces include, but are not limited to, roof tops, streets, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, compacted gravel and soil surfaces, and other similar structures and/or surfaces.

**IRRIGATION DITCHES:** Gravity irrigation ditches having a right of water passageway by right-of-way, easement, prescriptive easement, or ownership. Irrigation ditches also include those facilities that function as a combined stormwater and irrigation conveyance intended at times as a water routing and disposal system.

**LAND DISTURBING ACTIVITY:** Any activity on real property that results in a change in the existing soil cover (Both vegetative and non-vegetative) and/or the existing soil topography. Land-disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, and excavation.

**LAND DISTURBANCE PERMIT:** Land Disturbance Permit issued by the City.

**LOW IMPACT DEVELOPMENT (LID):** The control of the peak flow rates of stormwater discharge associated with design storms specified in this section or in the Development and Construction Standards to reduce the generation of post construction stormwater runoff to pre-construction levels or 100 year historical runoff flow rates. LID practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from Impervious Surfaces or semi-impervious services to the maximum extent practical to provide treatment for both water quality and quantity.

**MAINTENANCE:** Any activity that is necessary to keep a stormwater facility in good working order so as to function as designed. Maintenance shall also include the correction of any problem on the property site that may directly impair the functions of the stormwater facility.

**MAINTENANCE AGREEMENT:** A document recorded with the Utah County Recorder that acts as a property deed restriction, and which provides for long-term maintenance of a stormwater management facility or stormwater BMP.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4):** The stormwater conveyance facilities owned or operated by the City for the collection and transportation of stormwater, including the streets

and their drainage systems, catch basins, curbs, gutters, ditches, man-made channels, storm drains, etc.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT (NPDES PERMIT): A permit issued by the Utah Division of Environmental Quality pursuant to 33 U.S.C. §1342.

NOTICE OF VIOLATION (NOV): Whenever the City finds that a Person is in non-compliance with this ordinance, he/she will be ordered to comply by giving written NOV to the responsible Person. Requirements in this notice are at the discretion of the City Engineer, and may include monitoring, payment to cover costs relating to the non-compliance, and/or the implementation of BMPs.

OFF-SITE FACILITY: A structural BMP located outside the subject property boundary described in the permit application for land development activity, which provides an integral part of the storm drain system for a given parcel.

ON-SITE FACILITY: A structural BMP located within the subject property boundary described in the permit application for land development activity.

PEAK FLOW: The maximum instantaneous rate of flow of water at a particular point resulting from a storm event.

PRE-EXISTING CONDITIONS: Conditions of property in its native state or changed under approval by the City or changed property that is grandfathered.

PRIORITY AREA: Hot Spot as herein defined.

RETENTION/DETENTION BASIN: A depression, designed with an inlet and outlet that regulates water flow and allows debris to settle out, and is capable of detaining or retaining stormwater runoff.

RUNOFF: That portion of the precipitation or other naturally or artificially occurring water on a drainage area that is discharged from the area into the MS4. Also, water produced by storms, surface drainage, snow and ice melt, and other water handled by the MS4.

SEDIMENT: Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level or within any part of the storm drainage system.

**SEDIMENTATION:** Soil particles suspended in stormwater that can or have settled in stream beds and which disrupt the natural flow of the stream or otherwise disrupt the intended storm drain system function.

**SENSITIVE LANDS:** Wetlands, slopes of 30% grade or greater, and other unique features on land as designated by the City Engineer.

**SOILS REPORT:** Study of soils on a subject property with the primary purpose of characterizing and describing the soils. The soils report shall be prepared by a qualified soils engineer, licensed in the State of Utah, who shall be directly involved in the soil characterization either by performing the investigation or by directly supervising employees who do so.

**WOODLAND HILLS CITY STORMWATER MANAGEMENT PLAN:** Those certain manuals, drawings, documents, specifications, ordinances, practices, and policies set in place by the City to regulate, permit, manage, and otherwise oversee the discharge of stormwater within the corporate boundaries of the City. This includes both those manuals and practices which are in place at the time of the passage of this ordinance and those which will yet be put in place, adopted, or revised in future actions.

**STABILIZATION:** Providing adequate measures, vegetative and/or structural, that will prevent erosion.

**STORM DRAIN PIPE:** A closed conduit for transmitting stormwater that has been collected by inlets or other means.

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

**STORM DRAIN DITCH:** An open conduit for transmitting stormwater that has been collected or routed by inlets, curb and gutter, or other means.

**STORMWATER MANAGEMENT:** The programs adopted to maintain the quality and quantity of stormwater runoff to pre-development levels.

**STORMWATER MANAGEMENT PLAN:** The drawings and other documents that comprise all the information and specifications for the programs, drainage systems, structures, BMPs, concepts, and techniques intended to maintain or restore quality and quantity of stormwater runoff to pre-development levels using LID and other BMPs.

**STORMWATER MASTER PLAN:** The most recent version of the City Stormwater Master Plan as adopted by the City Council.

**STORMWATER POLLUTION PREVENTION PLAN (SWPPP):** A set of plans showing the location of the BMPs during the different phases of construction and system management.

**STORMWATER RUNOFF:** Water flow on the surface of the ground, resulting from precipitation.

**STORMWATER UTILITY:** The stormwater utility created by ordinance to administer the stormwater management ordinance, and other stormwater rules and regulations adopted by City.

**STRUCTURAL BMPS:** Devices that are constructed to control stormwater runoff.

**SUMPS:** A formalized underground structure surrounded by drain rock, which acts as a detention basin to allow the slow release of water into the surrounding sub-soil. Sumps generally receive stormwater runoff from paved areas such as streets, parking lots, building roofs, etc.

**SURFACE WATER:** Includes waters upon the surface of the earth created naturally or artificially including, but not limited to, streams, ditches, lakes, reservoirs, ponds, sloughs, canals, or other bodies of water.

**UTAH POLLUTION DISCHARGE ELIMINATION SYSTEM (UPDES):** The Utah Pollution Discharge Elimination System.

**WATERCOURSE:** A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

**WATERSHED:** All the land area that contributes runoff to a particular point along a waterway.

#### 12-1-3: Applicability

A. This ordinance shall apply to all water entering the storm sewer system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

#### 12-1-4: Administration

A. The Public Works Department is designated as the responsible

department, with the City Engineer as the official responsible for the administration of this Chapter. The City Engineer may delegate any or all administrative duties provided herein as deemed necessary.

#### 12-1-5: Conflict

A. In the event of a conflict between the terms of this Chapter or any other law, ordinance or rule, the more restrictive provision shall apply.

## **Chapter 2**

### **STORMWATER SYSTEM DESIGN AND MANAGEMENT STANDARDS**

#### SECTION:

- 12-2-1: Irrigation Ditches
- 12-2-2: Drainage Channels, Waterways, and Sensitive Areas
- 12-2-3: Storm Water Design and BMP Manuals
- 12-2-4: General Performance Criteria
- 12-2-5: Minimum Control Requirements
- 12-2-6: Storm Water Pollution Prevention Plan Requirements
- 12-2-7: Dedication

#### 12-2-1: Irrigation Ditches

A. All existing irrigation ditches located on the site or straddling a site property boundary shall be piped with a sufficiently sized pipe and shall be coordinated with the water user and City Engineer.

B. Property owners are responsible for the protection and preservation of irrigation ditches through their parcel per the relevant sections of this code.

C. Discharges to private ditches require written approval from the ditch owners and design shall comply with the terms of approvals and the Storm Water Design Standards.

#### 12-2-2: Drainage Channels, Waterways, and Sensitive Areas

A. Property owners shall not alter or restrict natural channels and waterways without proper Federal, State and City permits.

B. Modifications of sensitive areas are subject to and governed by the City Code. These actions will require a Storm Water Permit and approval from all other governing agencies.

C. Property owners proposing to redirect runoff, surface, and/or pipe flow to properties or facilities outside Woodland Hill's boundaries must provide written approval from the state, county, or municipality, or their agents.

D. Property owners are responsible for the protection of natural and artificial channels located within their property per the relevant sections of this ordinance.

E. Discharges or modifications to the channels require written approval from the canal owners and applicable governing agencies.

#### 12-2-3: Storm Water Design and BMP Manuals

A. The municipality adopts as its Stormwater Design and Best Management Practices (BMP) manuals the following publication, which is incorporated by reference in this code as is fully set herein:

##### 1. Woodland Hills City Development and Construction Design Standards

B. This manual includes a list of acceptable BMPs and includes specific design performance criteria and operation and maintenance requirements for each stormwater practice. The manual may be updated and expanded from time to time, at the discretion of the governing body of the City, upon the recommendation of the City Engineer, based on improvements in engineering, science, monitory and local maintenance experience. Stormwater facilities that are designed, constructed and maintained in accordance with this manual will be presumed to meet the minimum water quality performance standards.

#### 12-2-4: General Performance Criteria

A. Design of storm drain systems in the boundaries of and discharges into a Woodland Hills City storm drain system requires direct supervision of a Utah Registered Professional Engineer, and shall carry the seal of the same supervising professional engineer.

B. All site designs shall control the peak flow rates of storm water discharge associated with design storms as specified in the City's Development and Construction Standards (DCS). These practices should seek to utilize pervious areas from storm water treatment and to infiltrate storm water runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practical to provide treatment for both water quality and quantity.

C. To protect stream channels from degradation, specific channel protection criteria shall be provided as prescribed in the DCS.



D. Storm water discharges to critical areas with sensitive resources (i.e., cold water fisheries, swimming beaches, recharge areas, water supply reservoirs) may be subject to additional performance criteria, or may need to utilize or restrict certain storm water management practices.

E. Storm water discharges from "hot spots" may require the application of specific structural BMPs and pollution prevention practices.

F. Prior to or during the site design process, applicants shall consult with the City Engineer to determine if they are subject to additional storm water design requirements.

G. The calculations for determining peak flows as found in the DCS shall be used for sizing all storm water facilities.

#### 12-2-5: Minimum Control Requirements

A. Stormwater discharge during all construction activities shall comply with the most current terms as adopted by the State of Utah of the UPDES Stormwater General Permit for Construction Activities, Guidance Document for Stormwater Management and/or requirements set forth by the Building Code, and the State of Utah UPDES requirements.

B. Stormwater designs shall meet the multi-stage storm frequency storage and runoff volume requirements as identified in the DCS, along with the operation, installation, and maintenance standards in the DCS unless the Stormwater Superintendent has granted the applicant a full or partial waiver for a particular requirement.

C. Runoff rates from one lot to another may not exceed pre-existing conditions or in such a manner that may unreasonably and unnecessarily cause more harm than formerly.

D. If hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the Stormwater Superintendent may impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff. Failure to remove the sediment, soil or debris shall be deemed a violation of this ordinance.

E. Soil, sediment, and debris brought onto streets and public ways must be removed by the end of the work day by machine, broom or shovel to the satisfaction of the Stormwater Superintendent.

#### 12-2-6: Storm Water Pollution Prevention Plan Requirements

A. Refer to Chapter 3 of this section for the storm water pollution prevention plan requirements.

12-2-7: Dedication

A. The municipality shall have the discretion to accept the dedication of any existing or future storm water management facility, provided such facility meets the requirements of this code, and includes adequate and perpetual access and sufficient areas, by easement or otherwise, for inspection and regular maintenance.

B. Any storm water facility accepted by the municipality must also meet the municipality's construction standards and any other standards and specifications that apply to the particular storm water facility in question.

## **CHAPTER 3**

### **Storm Water Pollution Prevention Plans**

#### **SECTION:**

12-3-1: Purpose

12-3-2: Plan Requirements

12-3-3: SWPPP Inspections

12-3-4: Standard Operating Practices

12-3-1: Purpose

A. Property owners are responsible to manage stormwater runoff and sediment whether in conduit systems or on the surface that traverse or originate on their property, unless this responsibility is relinquished through the terms and conditions of an easement. In order to manage stormwater the Property Owner must develop a stormwater pollution prevention plan and implement the plan. The stormwater pollution prevention plan shall include sufficient information to allow the Stormwater Superintendent to evaluate the environmental and historical characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness

and acceptability of the measures proposed for managing stormwater generated at the project site.

#### 12-3-2: Plan Requirements

A Storm Water Pollution Prevention Plan (SWPPP) must be completed, submitted, and approved by the technical review committee before construction begins. It is required as part of the final plat submittals. A copy of the SWPPP must be either kept on site at all times during construction, accessible to the SWPPP Inspector in electronic form, or available upon request within 1 hour.

B. All SWPPPs shall meet the requirements of Stormwater General Permit for Construction Activities Permit No. UTRC00000. Developers must use the State template to ensure that the plan has been prepared in compliance with the State permit.

1. All SWPPP templates and the template guidelines can be found at <https://deq.utah.gov>

C. All other documents, permits, and plans as outlined in the General Permit are required.

#### 12-3-3: Inspections

##### A. High Priority Locations

1. Weekly Visual Inspections - The Permittee must perform weekly visual inspections of "high priority" facilities in accordance with developed SOPs to minimize the potential for pollutant discharge. The inspection log should also include any identified deficiencies and the corrective actions taken to fix the deficiencies.

2. Quarterly Comprehensive Inspections - At least once per quarter, a comprehensive inspection of "high priority" facilities, including all storm water controls, must be performed, with specific attention paid to waste storage areas, dumpsters, vehicle and equipment

maintenance/fueling areas, material handling areas, and similar pollutant generating areas. This inspection must be done in accordance with the developed SOPs. An inspection report must also include any identified deficiencies and the corrective actions taken to remedy the deficiencies.

3. Quarterly visual observation of storm water discharges: At least once per quarter, the Permittee must visually observe the quality of the storm water discharges from the "high priority" facilities (unless climate conditions preclude doing so, in which case the Permittee must attempt to evaluate the discharges four times during the wet season). Any observed problems (e.g., color, foam, sheen, turbidity) that can be associated with pollutant sources or controls must be remedied to prevent discharge to the storm drain system. This inspection must be done in accordance with the developed SOPs. The inspection report must also include any identified deficiencies and the corrective actions taken to remedy the deficiencies.

#### B. Project Inspections

1. Pre-site SWPPP inspection is required after initial BMPs have been installed and before construction begins, performed by the City SWPPP Inspector.

2. Permittee shall perform weekly SWPPP inspections on the site.

3. Monthly inspections shall be performed by the City SWPPP Inspector.

a. If there are any necessary corrective actions a follow-up inspection will be performed on the timeframe provided by the City SWPPP Inspector.

4. A final SWPPP inspection will be required before project termination and before Notice of Termination (NOT) is submitted to the state.

a. Site should have all BMPs removed or BMPs may be left in place if future development/construction is to occur within 14 calendar days after site termination.

b. Site soil stabilization shall be completed or stabilization responsibilities shall be passed on to future parties if development/construction is to occur within 14 calendar days after site termination

c. Owner/operator will address all concerns from the SWPPP inspector before Notice of Termination (NOT) is submitted to the state

(applicable only if your site was required to submit an NOI with the state).

## **Chapter 4**

### **ILLICIT DISCHARGE**

#### SECTION:

- 12-4-1: Prohibited Obstructions
- 12-4-2: Prohibited Illicit Discharges
- 12-4-3: Illicit Connections
- 12-4-4: Mitigation and NPDES Permits
- 12-4-5: Notification of Spills
- 12-4-6: Drinking Water Protection
- 12-4-7: Damage to Storm Sewer System of Irrigation Lines

#### 12-4-1: Prohibited Obstructions

A. Unlawful Obstructions. It is unlawful for any person to:

1. Obstruct the flow of water in the storm sewer system;
2. Contribute to the obstruction of the flow of water in the storm sewer system;
3. Cover or obstruct any drain inlet;
4. Operate any vehicle so as to track or drop mud, stones, dirt, concrete, gravel, sand, bark or other similar material onto public streets. It shall be the duty of the driver of a vehicle who unlawfully drops or deposits mud, stones, concrete, gravel, sand, bark or other similar material or permits the load or any portion thereof to be dropped or deposited upon any street or other public place to immediately remove the same or cause it to be removed. It shall be the duty of the driver of any vehicle to clean the tires and vehicle undercarriage of dirt or debris before the vehicle enters onto a paved surface public right of way;
5. Discharge waste concrete or concrete truck rinse water except into pre-approved discharge facilities or designated areas. Dumping of excess concrete shall not be allowed; or
6. Stockpile construction or yard improvement materials or debris

in the street or in the gutter unless being stored in a self-contained storage unit that has been pre-approved by the Public Works Department. This includes, but is not limited to, ramps being constructed for temporary access across the existing curb and gutter; stockpiling of topsoil or other fill material; stockpiling of sand, gravel, landscape rock, bark, mulch or any other material that may be considered a source of pollution to the storm water system. An exception to this prohibition must be expressly granted to the applicant in the approved land disturbance permit. All other persons or entities, where a land disturbance permit is not required, desiring to create a temporary ramp for construction, landscape, or other purposes, may use a gravel ramp of one inch (1") gravel or larger, in combination with a mechanism approved by the City Engineer for seeing that the gravel does not enter into the City's storm drain system. The ramp shall be removed immediately after the development activity ceases or upon notice from the City to do so, whichever occurs first.

B. Exceptions. The following obstructions are exempt from the prohibitions of this section:

1. Street and/or storm sewer improvement projects authorized by the City;
2. Flood control and prevention activities performed by the City;
3. Obstructions approved by the City as part of a site's storm water drainage plan; and
4. Obstructions occurring during clean-up periods established by the City, provided that the materials are placed according to City directions and do not obstruct drain inlets.

C. Owners shall be given a reasonable time, not to exceed forty-eight (48) hours - unless written approval with conditions for a longer period of time is granted by the City, in order to clean up any

obstructions under subparagraph (A) (4) and (A) (5) that are caused by a commercial entity. This Section shall not limit or prohibit the City's enforcement of all available remedies and enforcement powers against any commercial entity for obstructions caused under subsections (A) (4) and (A) (5).

#### 12-4-2: Prohibited Illicit Discharges

A. Prohibition of Illicit Discharges - No person shall introduce or cause to be introduced into the municipal separate storm water system any discharge that is not composed entirely of storm water. The commencement, conduct, or continuance of any non-storm water discharge to the municipal separate storm water system is prohibited.

#### B. Exceptions

1. Water line flushing or other potable water sources.
2. Landscape irrigation or lawn watering with potable water or City's pressure irrigation water.
3. Diverted Stream Flows.
4. Rising ground water.
5. Groundwater infiltration to storm drains.
6. Uncontaminated pumped groundwater.
7. Discharges from potable water sources.
8. Foundation or footing drains.
9. Crawl space pumps.
10. Air conditioning condensation.
11. Springs.
12. Natural riparian habitat or wet-land flows.
13. Swimming pools if dechlorinated, typically less than one PPM chlorine.
14. Firefighting activities.



15. Any other uncontaminated water source.

16. Discharges specified in writing by the City Engineer as being necessary to protect public health and safety.

17. Dye testing is an allowable discharge if the City Engineer has so specified in writing.

18. The prohibition shall not apply to any non-storm water discharge permitted under an UPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the State of Utah Division of Water Quality, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

#### 12-4-3: Illicit Connections

A. The construction, use, maintenance, or continued existence of illicit connections to the MS4 is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law of practices applicable or prevailing at the time of connection.

#### 12-4-4: Mitigation and NPDES Permits:

A. Mitigation and NPDES Permits: Any person responsible for property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, the BMP's necessary to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

#### 12-4-5: Notification of Spills

A. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm sewer system or water of the United States said person shall take all necessary steps to ensure the discovery, containment and

cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Woodland Hills City Public Works Department, 690 South Woodland Hills Drive, Woodland Hills, Utah 84653 within three business days of the phone notice.

#### 12-4-6: Drinking Water Protection

A. All storm water and non-storm water discharges shall comply with the City's drinking water source protection ordinance.

#### 12-4-7: Damage to Storm Sewer System or Irrigation Lines

A. Any person who damages any portion of the storm sewer system, a City-owned irrigation line, or a City maintained irrigation line shall be responsible for repairing the damages. The damages shall be repaired by a licensed contractor bonded to do work in the City and shall be repaired in accordance with the City's Construction Standards and Specifications. It is unlawful to remove or alter any portion of the storm sewer system without permission from the City Engineer.

## **Chapter 5**

### **INSPECTIONS**

#### SECTION:

- 12-5-1: Purpose
- 12-5-2: Scope
- 12-5-3: Access
- 12-5-4: Follow-up Inspections
  
- 12-5-1: Purpose

A. To be in accordance with the most current State of Utah General Permit for Discharges for Small Municipal Separate Storm Sewer Systems (MS4), permit, the City will conduct inspections to monitor all discharges to natural water bodies including lakes, rivers, streams and canals, stormwater controls and BMPs.

#### 12-5-2: Scope

A. Inspections relating to MS4 Permit include but are not limited to illicit discharges, construction activities and post construction operations and maintenance of stormwater controls, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs either publicly or privately owned.

#### 12-5-3: Access

A. Visual Inspections of discharges to natural water bodies, spills, stormwater related controls on private property within the Woodland Hills City limits are permitted by the Stormwater Superintendent at any time.

B. Other Inspections - When a visual inspection is not adequate to determine the extent of discharges to natural water bodies, spills or determine the status of stormwater related controls on private property, the City will give 24 hours' notice of the inspection to take place and the extent of the inspection. Equipment and manpower necessary to perform the inspection will be allowed to access and work as necessary to determine the state of the situation.

C. Emergency Inspections - During times of emergency including discharges to natural water bodies, spills, or potential damage to life or property, the City may access the location of concern as necessary and with the equipment required to determine the status of the situation. Reasonable attempts to contact the property owner prior to the inspection will be made prior to accessing private property.

#### 12-5-4: Follow-up Inspections

A. During initial or routine inspections if problems are identified which require corrective actions then a follow-up inspection will be scheduled.

## **CHAPTER 6**

### **POST CONSTRUCTION STORM WATER MANAGEMENT**

#### SECTION:

- 12-6-1: Post Construction
- 12-6-2: Maintenance
- 12-6-3: Stormwater Maintenance Plan
- 12-6-4: Maintenance Agreement
- 12-6-5: Maintenance Arrangements
- 12-6-6: Maintenance Easements
- 12-6-7: Low Impact Development
- 12-6-8: As-Built Plans
- 12-6-9: Landscaping and Stabilization Requirement
- 12-6-10: Post-Construction Inspection
- 12-6-11: Records of Installation and Maintenance
- 12-6-12: Failure to Maintain

#### 12-6-1: Post Construction

A. The following procedures shall apply after construction activity is completed.

1. The inspection and completion of construction of public storm water improvements shall comply with the final approved subdivision engineering standards or any revisions thereto that have been accepted in writing by the City Engineer.

2. After final stabilization of the site is achieved, the owner or authorized agent shall submit a notice of termination (NOT) to the state as required by state requirements.

#### 12-6-2: Maintenance

A. General - The owner or authorized agent shall utilize methods,

approaches and techniques in the design and construction of storm water management improvements that will allow for improvements to be properly maintained after the construction activity is completed.

B. Responsibility. The responsibility for maintenance of storm water management facilities shall be as follows.

a. The owner or authorized agent shall be responsible for all storm water management improvements not officially accepted by the City.

b. The owner or authorized agent shall be responsible for all storm water management improvements on any lot that is not a part of a common promotional plan.

c. The owner or authorized agent shall be responsible for the storm water management improvements on property that is part of a common promotional plan until the improvements are either accepted by the City or the improvements are accepted by a board, association or other permanent maintenance organization.

#### 12-6-3: Stormwater Maintenance Plan

A. As required by the Clean Water Act and resultant local regulations, including Woodland Hill City's Municipal Separate Storm Sewer Systems (MS4) permit, those who develop land are required to build and maintain systems that will prevent contaminated water from reaching waters of the state. A Stormwater Maintenance Plan (SMP) is necessary to prevent contaminated water, both stormwater and non-stormwater, from reaching the City's storm drain system. The SMP must identify the minimum standard operating procedures (SOPs) necessary to accomplish this purpose. All other activities and site operations not identified in this SMP that contaminates water entering the City's storm drain system must be prohibited.

#### 12-6-4: Maintenance Agreement

A. The owner of property to be served by an on-site storm water management facility must execute an inspection and maintenance agreement that shall operate as a deed restriction binding on the current property owner and all subsequent property owners. The maintenance agreement shall:

1. Assign responsibility for the maintenance and repair of the storm water facility to the owner of the property upon which the facility is located and be recorded as such on the plat for the property by appropriate notation.

2. Provide for periodic inspections to be conducted by the property owner or qualified designee for the purpose of documenting maintenance and repair needs and ensure compliance with the purpose and requirements of this section. This inspection shall be conducted by a qualified person as defined by the Utah Division of Water Quality who will submit a sealed report of the inspection to the City SD Representative.

3. It shall also grant permission to the City to enter the property at reasonable times and to inspect the storm water facility to ensure that it is being properly maintained.

4. Provide that the minimum maintenance and repair needs include, but are not limited to: the removal of silt, litter and other debris, the cutting of grass, grass cuttings and vegetation removal, and the replacement of landscape vegetation, in detention and retention basins, and inlets and drainage pipes and any other storm water facilities. It shall also provide that the property owner shall be responsible for additional maintenance and repair needs consistent with the needs and standards outlined in the BMP manual.

5. Provide that maintenance needs must be addressed in a timely manner, on a schedule to be determined by the City SD Representative.

6. Provide that if the property is not maintained or repaired within the prescribed schedule, the City Council shall direct the City SD Representative to perform the maintenance and repair at its expense, and bill the same to the property owner. The maintenance agreement shall also provide that the City SD Representative's cost of performing the maintenance may be filed as a lien against the property.

#### 12-6-5: Maintenance Arrangements

A. Any maintenance arrangements shall conform to the following:

1. No detention basin or other storm water improvements shall be considered accepted by the City unless specifically expressed, written approval and acceptance is made by the City Council.

2. The maintenance of storm water management improvements by a board, association or other permanent maintenance organization shall be arranged through appropriate legal means, such as agreements, indentures or covenants. Any such documents shall be submitted to the City Engineer for review and approval.

3. The owner or authorized agent shall dedicate all necessary easements to the City for all storm water improvements to be accepted by the City in accordance with the requirements of this Chapter.

4. Minimum Standards - Storm water management improvements shall be maintained in a clean, safe, sanitary condition complying with all applicable provisions of this Chapter and shall not cause a public nuisance as defined by the Municipal Code.

5. Periodic Inspections - The administrative officer may inspect existing storm water management improvements from time to time in order to ensure compliance with the provisions of this section.

#### 12-6-6: Maintenance Easements

A. The applicant must ensure access to the site for the purpose of inspection and repair by securing all maintenance easements needed. These easements must be binding on the current property owner and all subsequent owners of the property and must be properly recorded in the Office of the Utah County Recorder.

#### 12-6-7: Low Impact Development

A. Refer to Chapter 7 of this section for the Low Impact Development

guidelines.

#### 12-6-8: As-Built Plans

A. All applicants are required to submit as built plans for any structures located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be sealed by a registered professional engineer licensed to practice in Utah. A final inspection by the Stormwater Superintendent is required before any performance security or performance bond will be released. The Stormwater Superintendent shall have the discretion to adopt provisions for a partial pro-rata release of the performance security or performance bond on the completion of various stages of development. In addition, occupation permits shall not be granted until corrections to all BMP's have been made and accepted by the Stormwater Superintendent.

#### 12-6-9: Landscaping and Stabilization Requirement

A. Landscaping and stabilization requirements. Any area of land from which the natural vegetative cover has been either partially or wholly cleared by development activities shall be revegetated according to a schedule approved by the Stormwater Superintendent. The following criteria shall apply to revegetation efforts:

1. Reseeding must be done with an annual or perennial cover crop accompanied by placement of straw mulch or its equivalent of sufficient coverage to control erosion until such time as the cover crop is established over one hundred percent (100%) of the seeded area.

2. Replanting with native woody and herbaceous vegetation must be accompanied by placement of straw mulch or its equivalent of



sufficient coverage to control erosion until the plantings are established and are capable of controlling erosion.

3. Any area of revegetation must exhibit a minimum of seventy percent (70%) density of the cover crop throughout the year immediately following revegetation. Revegetation must be repeated in successive years until the minimum seventy percent (70%) density for one (1) year is achieved.

4. Stabilization must occur as required in the most recent State of Utah Stormwater General Permit for Construction Activities Permit.

#### 12-6-10: Post-Construction Inspection

A. Inspection of stormwater management facilities. Periodic inspections of facilities shall be performed as provided for in chapter 5 in this section.

#### 12-6-11: Records of Installation and Maintenance

A. Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation of the stormwater facility, and of all maintenance and repairs to the facility, and shall retain the records for at least 5 years. These records shall be made available to the Stormwater Superintendent during inspection of the facility and at other reasonable times upon request.

#### 12-6-12: Failure to Maintain

A. If a responsible party fails or refuses to meet the design or maintenance standards required for stormwater facilities under this ordinance, the Stormwater Superintendent, after reasonable notice,

may correct a violation of the design standards or maintenance needs by performing all necessary work to place the facility in proper working condition. In the event that the stormwater management facility becomes a danger to public safety or public health, the Stormwater Superintendent shall notify in writing the party responsible for maintenance of the stormwater management facility. Upon receipt of that notice, the responsible person shall have 15 days to effect maintenance and repair of the facility in an approved manner. In the event that corrective action is not undertaken within that time, the Stormwater Superintendent may take necessary corrective action. The cost of any action by the Stormwater Superintendent under this section shall be charged to the responsible party.

## **Chapter 7**

### **LOW IMPACT DEVELOPMENT (LID)**

#### **SECTION:**

- 12-7-1: Purpose
- 12-7-2: Definition of LID
- 12-7-3: Potential LID Features and Practices
- 12-7-4: Implementing LID Practices

#### 12-7-1: Purpose

A. The MS4 permit for Woodland Hills City requires the following: "For new development or redevelopment projects that disturb greater than or equal to one acre, the program shall include a process which requires the evaluation of a Low Impact Development (LID) approach which encourages the implementation of BMPs that infiltrate, evapotranspire or harvest and use storm water from the site to protect water quality" (Small MS4 General Permit No. UTR090000). As Woodland Hills continues to be developed, LID practices will need to be implemented to comply with State and Federal regulations.

#### 12-6-2: Definition of LID

A. LID is a comprehensive approach to micromanaging storm water where it is generated. The goal of LID is to develop a storm water management strategy where post-development hydrologic conditions

mimic pre-development conditions through utilizing storm water features that infiltrate and evapotranspiration in a cost-effective, flexible manner. It also involves protecting water quality by treating and filtering storm water near the source, before it infiltrates into the ground.

B. LID practices focus on preventing flooding, erosion, and pollution by utilizing natural processes to filter, treat, and allow storm water to infiltrate into the ground. It typically preserves, restores, and creates green infrastructure using soils and vegetation. By implementing LID principles and practices, water can be managed in a way that reduces negative environmental impacts often associated with developed areas and promotes the natural movement of water within the area.

C. LID strategies include several techniques to generate less runoff from developed land. LID practices are flexible, offering a wide variety of techniques to reduce runoff timing and volume. LID practices control storm water runoff at the lot level, using a series of integrated strategies that rely on natural processes. LID principles:

1. Preserve and recreate natural landscape features.
2. Minimize directly-connected impervious area.
3. Comprehensive, landscape-based approach to sustainable development.
4. Utilize natural hydrologic functions and processes.
5. Focus on prevention, rather than mitigation.
6. Emphasize simple, low-tech, low cost methods.
7. Manage storm water runoff as close to the source as possible.
8. Minimize disturbance.
9. Increase drainage flow paths.
10. Utilize onsite filtering and treatment methods.

#### 12-7-3: Potential LID Features and Practices

A. Xeriscape Swale/Grassy Swale – A swale landscaped with xeriscape

plants or grass can be used to infiltrate storm water in place. Curb cuts along roads can be used to discharge storm water runoff generated in paved streets and parking lots into the swale.

B. Underground Storage Tanks - Underground storage can include R-tanks, StormTech systems, or other underground storage facilities that are designed to detain or retain storm water runoff and allow it to infiltrate into the ground. Underground storage facilities should have an overflow to a centralized storm drain system. Treatment should be included on any underground storage facility.

C. Rain Barrels - Some runoff can be captured in rain barrels and utilized for non-potable purposes. It is important to keep in mind that in Utah, only 2500 gallons per parcel of rain water runoff is allowed to be collected and stored onsite.

D. Roof Drains - Roof drains should be connected to grassy/xeriscape areas or underground facilities, such as infiltration trenches or dry wells. Infiltration trenches or dry wells consist of perforated manholes and pipe surrounded by gravel and a geotextile fabric. The purpose of the infiltration trench or dry well is to store water and allow it to percolate into the ground. It is important that the roof runoff be treated prior to infiltrating into the ground.

E. Grass Filter Strips - Grass Filter Strips are low-angled vegetated slopes that drain away from the parking lot or roadway.

F. Bioretention - Bioretention includes the use of vegetation and soils to clean storm water runoff in an earthen basin lined with plants and mulch.

G. Permeable Pavement - Permeable pavement could include grass pavers, paving stones, porous asphalt, or pervious concrete. It can be used on parking stalls, overflow parking, driveways, walkways and plazas.

H. Soil Amendments - In areas where native soils have low infiltration rates, the native soils can be amended by mixing in organics or other materials to increase infiltration capacity. Soil amendments can also improve water quality, depending on the materials added. It is important that the soil is not compacted during construction.

I. Preserve Vegetation - The natural vegetation of an area to be developed should be preserved by reducing the total impervious area for a site by clustering buildings close together, reducing building footprints, reducing road widths, and other methods to preserve as much of the native vegetation as is feasible for a given site.

J. Storm Water Planters – Storm water planters are boxes with drought resistant vegetation that are used to capture storm water runoff from roofs and other impervious surfaces. They function like bioretention on a small scale.

K. The concepts listed above do not represent all the approaches for implementing LID. Ultimately, the developer and their engineer are responsible to research the most effective methods for implementing LID practices on a development site. Additional resources to research, plan and design LID are listed below:

1. MacAdams, James. Green Infrastructure for Southwestern Neighborhoods. (Oct 2012) Watershed Management Group. EPA Website.

<https://www.epa.gov/green-infrastructure/green-infrastructure-design-and-implementation>

2. Dorman, T., M. Frey, J. Wright, B. Wardynski, J. Smith, B. Tucker, J. Riverson, A. Teague, and K. Bishop. 2013. San Antonio River Basin Low Impact Development Technical Design Guidance Manual, v1. San Antonio River Authority. San Antonio, TX.

<https://www.epa.gov/green-infrastructure/green-infrastructure-design-and-implementation>

3. Environmental Protection Agency. (April 2009) Managing Stormwater with Low Impact Development Practices: Addressing Barriers to LID. EPA 901-F-09-003.

<https://www3.epa.gov/region1/npdes/stormwater/assets/pdfs/AddressingBarrier2LID.pdf>

4. Environmental Protection Agency. (1995, November). Pollution Control Programs for Roads, Highways and Bridges. (EPA-841-F-95-008c). Office of Water. Washington, DC: Environmental Protection Agency.

<http://www.epa.gov/owow/nps/education/control.html>

5. Environmental Protection Agency. (2008, March 7). NPS Categories | Roads, Highways and Bridges | Polluted Runoff (Nonpoint Source Pollution) | US EPA. <http://www.epa.gov/owow/nps/roadshwys.html>

6. Spanish Fork City. Low Impact Development. (Dec 2013). Project Engineering Consultants.

[http://www.spanishfork.org/dept/pubworks/utilities/storm/pdf/Low\\_Impact\\_Development\\_Report.pdf](http://www.spanishfork.org/dept/pubworks/utilities/storm/pdf/Low_Impact_Development_Report.pdf)

7. National Cooperative Highway Research Program. Evaluation Of Best Management Practices For Highway Runoff Control. Low Impact Development Design Manual for Highway Runoff Control. (2006)

<http://www.coralreef.gov/transportation/evalbmp.pdf>

#### 12-7-4: Implementing LID Practices

A. All development and redevelopment in Woodland Hills City is required to consider an LID approach for managing storm water. The planning and design process are critical for the successful implementation of LID.

##### B. Planning

1. LID Feasibility - All plans for LID facilities will need to be approved by the City prior to design. During the planning process, groundwater levels, and source protection zones, and other concerns with subsurface conditions need to be considered. Site conditions such as collapsible soils, low percolation rates, wetlands, and high groundwater levels will limit the types of LID facilities that can be used. We encourage the developer and his/her engineer to be creative in developing innovative means to implement LID. If the developer believes that LID facilities cannot be utilized on their particular site, documentation will need to be submitted to and approved by the City explaining the reasons why LID cannot be utilized. The documentation must illustrate that infiltration, evapotranspiration and rainwater harvesting has been used to the maximum extent technically feasible and that full employment of LID facilities are not feasible due to site constraints.

2. Geotechnical Analysis - Prior to proceeding with design, soils testing and an associated soils report need to be completed and submitted to the City to document subsurface conditions at each individual site. The geotechnical report must include (at a minimum) percolation rates, groundwater levels, and soil type (including whether the soils are collapsible). The geotechnical report is usually added to the Drainage Report as an appendix.

3. Source Protection Zones - Some LID practices may not be appropriate in Zone 1 water source protection areas (Zone 1 Areas) because they require infiltration. Zone 1 Areas are defined as the "area within a 100-foot radius from the wellhead or margin of the collection area." (Utah State Code (R309-600-9)(3)(a)(i)). LID practices may be implemented in Zones 2, 3, and 4 water source protection areas (Zones 2, 3 and 4). However, LID facilities in Zones 2, 3, and 4 may require additional treatment at the discretion of the City.

##### C. Onsite Retention Requirement

1. The EPA requires that each state adopt an ordinance that requires developments to retain storm water onsite. The State Division of Water Quality requires developments to retain the 90<sup>th</sup> percentile storm event on site. It is required that any new development or redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, must collect and retain storm water runoff from the 90th percentile storm onsite.

2. The 90<sup>th</sup> percentile storm has been estimated to be a depth of 0.7 inches in Woodland Hills City. Retention of the 90<sup>th</sup> percentile runoff must be accomplished by the use of LID practices, as described in previous chapters of this section. If meeting the retention standard is technically infeasible, documentation shall be provided on a case by case basis for the use of alternative design criteria. The documentation must illustrate that infiltration, evapotranspiration and rainwater harvesting have been used to the maximum extent technically feasible and that full employment of LID facilities are infeasible due to site constraints.

#### D. Design

1. Design Storm - All storm water facilities in the City shall be designed as required in the Development and Construction Standards.

2. Retention - Onsite retention of the 90<sup>th</sup> percentile storm is required as outlined in the previous subsection.

3. Overflow - LID facilities need to have an overflow that connects to a centralized storm drain system for larger storm events.

4. Treatment - Underground storage and infiltration facilities need to include treatment for oil, grease, and other pollutants for all sites as determined by the City Engineer.

5. Inventory - All LID facilities shall be inventoried by the City to be included in their storm drain master plan.

6. Generally, above-ground LID facilities will be owned and maintained by the property owner, unless the City agrees otherwise. Underground storage and infiltration facilities should be maintained by City personnel, after construction has been completed and approved by the City. Underground retention/detention infiltration facilities will need to be designed in a way that allows the City to access and maintain them.

## **CHAPER 8**

### **EXISTING LOCATIONS AND DEVELOPMENTS**

#### SECTION:

- 12-8-1: Requirements for all Locations
- 12-8-2: Requirements for Problem Locations
- 12-8-3: Inspection of Existing Facilities
- 12-8-4: Corrections of Problems

#### 12-8-1: Requirements for all Locations

A. The following requirements shall apply to all locations and developments at which land disturbing activities have occurred previous to the enactment of this ordinance:

1. Denuded areas must be vegetated or covered and on a schedule acceptable to the Stormwater Superintendent.
2. Cuts and slopes must be properly covered with appropriate vegetation and/or retaining walls constructed.
3. Drainage ways shall be properly covered in vegetation or secured with rip-rap or channel lining to prevent erosion.
4. Trash, junk, rubbish shall be cleared from drainage ways.
5. Stormwater runoff shall be controlled to the extent reasonable to prevent pollution of local waters. Such control measures may include, but are not limited to, the following:
  6. Ponds.
    - a. Detention pond.



- b. Extended detention pond.

- c. Wet pond.

- d. Alternative storage measures.

- 7. Constructed wetlands

- 8. Infiltration systems

- a. Infiltration/percolation trench.

- b. Infiltration basin.

- c. Drainage/recharge well.

- d. Porous pavement.

- 9. Filtering systems

- a. Catch basin inserts/media filter.

- b. Sand filter.

- c. Filter/absorption bed.

- d. Filter and buffer strips.

- 10. Open channel

- a. Swale

12-8-2: Requirements for Problem Locations

A. The Stormwater Superintendent shall in writing notify the owners of existing locations and developments of specific drainage, erosion or sediment problem affecting such locations and developments, and the specific actions required to correct those problems. The notice shall also specify a reasonable time for compliance

#### 12-8-3: Inspection of Existing Facilities

A. The Stormwater Superintendent may, to the extent authorized by state and federal law, establish inspection programs to verify that all stormwater management facilities, including those built before as well as after the adoption of this ordinance, as well as city owned facilities, are functioning within design limits. These inspection programs may be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of the municipality's NPDES/UPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other BMPs.

#### 12-8-4: Corrections of Problems

A. Corrective measures imposed by the Stormwater Superintendent under this section are subject to appeal under chapter 9 of this section.

## **CHAPTER 9**

### **CIVIL ENFORCEMENT**

#### SECTION:

- 12-9-1: Enforcement Authority
- 12-9-2: Violations
- 12-9-3: Notification of Violation
- 12-9-4: Conflicting Standards
- 12-9-5: Civil Penalties
- 12-9-6: Right of Entry
- 12-9-7: Measuring Civil Penalties
- 12-9-8: Recovery of Damages and Costs
- 12-9-9: Other Remedies
- 12-9-10: Remedies Cumulative
- 12-9-11: Liability
- 12-9-12: Right to Stop Work
- 12-9-13: Bond
- 12-9-14: Appeals

- 12-9-1: Enforcement Authority

A. The Stormwater Superintendent or his designees shall have the authority to issue notices of violation, stop work orders, and citations, and to impose the civil penalties provided in this chapter.

1. With the issuance of a Land Disturbance Permit or Stormwater Permit, the Stormwater Superintendent shall be permitted to enter and inspect, including testing and investigation, facilities subject to this ordinance at all reasonable times and as often as necessary to determine compliance. Failure to comply with the terms of this ordinance may result in civil or criminal

enforcement by Woodland Hills City, The Utah Health Department or by other means identified in permits or terms set forth in development applications.

#### 12-9-2: Violations

A. Violations Enumerated - No person shall fail, refuse, or neglect to comply with the following:

1. Provisions of this Chapter;
2. Orders issued by the City Engineer or the City Building Official pursuant to the provisions of this Chapter;
3. Conditions imposed on land disturbance permits pursuant to the provisions of this Chapter; and
4. Rules and regulations of the office of the City Engineer with respect to grading, which were in effect at the time the land disturbance permit was issued.

B. Continuing Violation. Each and every day, or portion thereof, during which any violation of any of the provisions of this Chapter is committed, continued, or land disturbance permitted, shall be considered a separate offense.

#### 12-9-3: Notification of Violation

A. Written Notice - Whenever the Stormwater Superintendent finds that any permittee or any other person discharging stormwater has violated or is violating this ordinance or a permit or order issued hereunder, the Stormwater Superintendent may serve upon such person written notice of the violation and such person shall within ten (10) days of this notice, provide an explanation for the violation and a plan

for the satisfactory correction and prevention thereof, to include specific required actions which shall be submitted to the Stormwater Superintendent. Submission of this plan in no way relieves the discharger of liability for any violations occurring before or after receipt of the notice of violation.

B. Consent Orders - The Stormwater Superintendent is empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the person to correct the noncompliance within a time period also specified by the order.

C. Compliance Order - When the Stormwater Superintendent finds that any person has violated or continues to violate this ordinance or a permit or order issued thereunder, he may issue an order to the violator directing that, following a specific time period, adequate structures, devices, be installed or procedures implemented and properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the construction of appropriate structures, installation of devices, self-monitoring, and management practices.

D. Cease and Desist Orders - When the Stormwater Superintendent finds that any person has violated or continues to violate this ordinance or any permit or order issued hereunder, the Stormwater Superintendent may issue an order to cease and desist all such violations and direct those persons in noncompliance to:

1. Comply with; or

2. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

#### 12-9-4: Conflicting Standards

A. Nothing herein is intended to limit or prohibit the enforcement of the Woodland Hills City Code or other applicable laws through civil or criminal process where the City has determined that enforcement of the procedures outlined in these sections will not result in effective redress, where there have been repeated violations of the provisions of this Chapter, or where the severity of the violation warrants redress through civil or criminal action.

B. Whenever there is a conflict between any standard contained in this ordinance and in the DCS, the strictest standard shall prevail.

#### 12-9-5: Civil Penalties

A. Any person violating the provisions of this ordinance may be assessed a civil citation and may be assessed a penalty by the Storm Sewer Superintendent of not less than fifty dollars (\$50.00) and not more than five thousand dollars (\$5,000.00) per day for each day of violation. Each day of violation shall constitute a separate violation.

#### 12-9-6: Right of Entry

A. In the administration and enforcement of this Chapter, any duly authorized official or employee of the City shall have authority to enter upon the premises of the permitted site for the purposes of investigation and inspection; provided however, that such right of entry shall be exercised at reasonable times. No land disturbance permit holder shall refuse to allow such inspection. In the case where the responsible person is not a land disturbance permit holder, the

Enforcement Authority is to provide twenty-four (24) hours written notice of the intent to inspect, except in emergency situations or when consent has been obtained of the owner and/or occupant of the site to be inspected. The notice shall state that the property owner has the right to refuse entry and that, in the event such entry is refused, inspection may be made only upon issuance of a search warrant as allowed by law.

#### 12-9-7: Measuring Civil Penalties

A. In assessing a civil penalty, the Stormwater Superintendent may consider:

1. The harm done to the public health or the environment;
2. Whether the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
3. The economic benefit gained by the violator;
4. The amount of effort put forth by the violator to remedy this violation;
5. Any unusual or extraordinary enforcement costs incurred by the City;
6. The amount of penalty established by ordinance or resolution for specific categories of violations; and
7. Any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.

#### 12-9-8: Recovery of Damages and Costs

A. In addition to civil penalties, the City may recover:

1. All damages proximately caused by the violator to the city, which may include any reasonable expenses incurred in investigating violations of, and enforcing compliance with, this ordinance, or any other actual damages caused by the violation.

2. The costs of the City's maintenance of stormwater facilities when the user of such facilities fails to maintain them as required by this ordinance.

#### 12-9-9: Other Remedies

A. In addition to the other remedies listed in this ordinance Woodland Hills City may bring legal action to enjoin the continuing violation of this ordinance, and the existence of any other remedy, at law or equity, shall be no defense to any such actions.

#### 12-9-10: Remedies Cumulative

A. The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action, civil or criminal, that one (1) or more of the remedies set forth herein has been sought or granted.

#### 12-9-11: Liability

A. Neither issuance of grading approval under the provisions of this Chapter, nor compliance with the provisions of this Chapter, or with any conditions imposed in a land disturbance permit issued under the provisions of this Chapter, is to relieve any person from responsibility for damage to any person or property or impose any liability upon the City for damage to any person or property.

#### 12-9-12: Right to Stop Work



A. Nothing herein is to be construed as indicating that the City cannot immediately stop the work being performed if, in the opinion of the City Engineer, the damage being done is of such a nature that it requires immediate cessation of the work. This could result in the bypassing of the normal processes of notices and increasing levels of enforcement, which will typically be followed.

#### 12-9-13: Bond

A. A bond shall be posted by each applicant at the time any permit for development or construction is issued for the purpose of ensuring compliance with the conditions of this Chapter. The bonded amount shall be determined by the City department issuing the permit and may be included in the calculation of any payment, improvements, or repair bond already required as a condition of permit approval, or as a separate bond.

#### 12-9-14: Appeals

A. Any person who disagrees with the issuance of a civil citation, compliance order, cease and desist order, the imposition of a civil penalty or damage assessment, suspension or revocation as provided by this ordinance may appeal as described in Section 1-9-16 of this document.