

ORDINANCE NO. 2018-02

AN ORDINANCE AMENDING MULTIPLE ADMINISTRATIVE PROVISIONS IN TITLE 1, TITLE 2, AND TITLE 11 OF THE BLUFFDALE CITY CODE ESTABLISHING A DEFINITION FOR “SUBSTANTIAL CONSTRUCTION OR DEVELOPMENT,” CLARIFYING LAND USE AUTHORITY AND NOTICING REQUIREMENTS, AND ESTABLISHING AN APPEALS AND VARIANCE HEARING OFFICER AS THE CITY’S APPEAL AUTHORITY.

WHEREAS the City of Bluffdale has made an effort to review and update its ordinances to ensure compliance with Utah State Code and;

WHEREAS the Bluffdale City Code has had multiple sections discussing noticing requirements and land use and appeals authorities for various applications and the City of Bluffdale has desired to consolidate these requirements, processes, and authorities and;

WHEREAS the Bluffdale City Council has also desired the establishment of an Appeals and Variance Hearing Officer as the City’s Appeal Authority and;

WHEREAS the text amendments set forth herein have been reviewed by the Planning Commission and the City Council, and all appropriate public hearings have been held and public notice given in accordance with Utah law and local ordinance to obtain public comment regarding the proposed amendments to the Bluffdale City Ordinances.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLUFFDALE, UTAH:

Section 1. Text Amendments. The City Council hereby amends multiple administrative provisions in Title 1, Title 2, and Title 11 of the Bluffdale City Code.

Section 2. Severability. If any section, part or provision of this Ordinance is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other portion of this Ordinance, and all sections, parts and provisions of this Ordinance shall be severable.

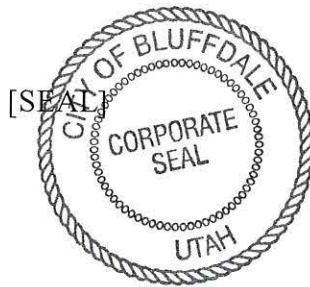
APPROVED, ADOPTED AND PASSED and ordered published by the Bluffdale City Council,
this 10th Day of January 2018.

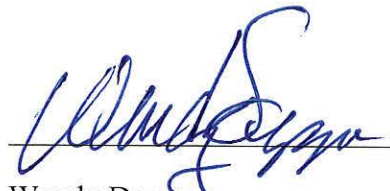
CITY OF BLUFFDALE



Mayor

ATTEST:





Wendy Deppe

Bluffdale City Recorder

Council members	Voting:
	AYE NAY
Alan Jackson	<u>X</u>
Ty Nielsen	<u>X</u>
Boyd Preece	<u>X</u>
Wendy Aston	<u>X</u>
Dave Kallas	<u>X</u>

EXHIBIT A: PROPOSED LANGUAGE

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:

OFFICER: An elected or appointed official, including members of the City Council, Planning Commission, ~~Board of Adjustment~~ Appeals and Variance Hearing Officer, any other board or commission, and appointed employees of the City.

1-5-4: ANNUAL MEETING SCHEDULE:

The eCity eCouncil shall adopt an annual meeting schedule for the eCity eCouncil ~~and, p~~Planning eCommission, ~~and board of adjustment.~~(2013 Code)

1-7-2: CITY MANAGER:

A. Duties: The duties of the City Manager are subject to the policies and programs established by the City Council and under the general direction and oversight of the City Council. The City Manager duties shall include the following: (~~Ord. 2017-14, 7-26-2017~~)

...

10. Act as the appeal authority for the appeal of fees pursuant to Utah State Code Annotated 10-9a-701(1)(c).

~~11.~~ Perform all other duties, obligations and exercise the powers set forth by ordinance, resolution, regulation or directive imposed by the City Council. (~~Ord. 2006-09, 10-17-2006; amd. 2013 Code~~)

...

Title 2 Chapter 4

APPEAL AUTHORITY

2-4-1: Appointments and Term: ~~There is hereby city council has created and established an Appeals and Variance Hearing Officer board of adjustment by the City Council to act as an appeal authority and the approval body for variance pursuant to Utah State Code. The Appeals and Variance Hearing Officer shall be appointed by the Mayor with the advice and consent of the City Council pursuant to Section 2-4-1(A). The board shall consist of five (5) members, and one (1) alternate member, each to be appointed by the mayor, with the advice and consent of the city council, for a term of no longer than five (5) years.~~

- ~~A. Removal From Office: Members of the board of adjustment may be removed for cause by the mayor, with the advice and consent of the city council, upon written charges filed against the member with the mayor and after a public hearing, if a public hearing is requested by the member being removed.~~
- ~~B. Vacancies To Be Filled: Any vacancy on the board of adjustment occurring by reason of death, resignation, removal or expiration of term shall be filled by appointment from the mayor, with the advice and consent of the city council.~~
- ~~C. Rules Governing Alternate Members: An alternate member of the board of adjustment shall serve in the absence of members of the board. When the absence of a member or members of the board for any meeting is known in advance, alternate members shall be called upon to fill such vacancies for that meeting. When filing such vacancies, an alternate member shall have full voting powers to decide matters before the board on that specific meeting's agenda.~~

A. Appointment: The Appeals and Variance Hearing Officer shall be appointed as follows:

1. The Appeals and Variance Hearing Officer shall be appointed by the Mayor with the advice and consent of the City Council.
2. The Appeals and Variance Hearing Officer shall be appointed for a term of one year and thereafter may be appointed for succeeding one-year terms.
3. The Appeals and Variance Hearing Officer shall, as a minimum, have such training and experience as will qualify them to conduct administrative or quasi-judicial hearings regarding land use, land development, and regulatory codes dealing with issues related to land use.
4. The Mayor may remove the Appeals and Variance Hearing Officer at any time and for any reason with the advice and consent of the City Council.
5. In the case of death, resignation, removal or disqualification, the position of Appeals and Variance Hearing Officer shall be promptly filled by a replacement appointed by the Mayor with the advice and consent of the City Council.
6. The Appeals and Variance Hearing Officer shall be considered an independent contractor; and as such will enter into a yearlong contract for services at the beginning of each appointed term. Terms for compensation and reimbursement will be determined and agreed upon in the aforementioned contract. The terms and conditions of the contract shall ultimately be approved by the City Council prior to any individual entering into an agreement with the city to serve as the Appeals and Variance Hearing Officer.
7. The Mayor may, from time to time and with the advice and consent of the City Council, appoint an Appeals and Variance Hearing Officer pro tempore on a temporary basis when necessitated by the absence, unavailability, incapacity, conflict of interest or disqualification of the regularly appointed Appeals and Variance Hearing Officer. Each Appeals and Variance Hearing Officer pro tempore shall, as a minimum, have qualifications which are similar to the regularly appointed Appeals and Variance Hearing Officer.

B. Organization And Procedure: The Appeals and Variance Hearing Officer shall organize and exercise its powers and duties as follows:

1. The Appeals and Variance Hearing Officer may adopt reasonable policies and procedures in accordance with city ordinances to govern the conduct of its meetings and hearings and for any other purposes considered necessary for the functioning of the position of Appeals and Variance Hearing Officer.

2. The Appeals and Variance Hearing Officer shall hold meetings as needed to consider matters within its purview under the City's Land Use Ordinance. The Appeals and Variance Hearing Officer meetings shall be held as deemed necessary by the Appeals and Variance Hearing Officer. All meetings shall be properly noticed and held in accordance with the open meetings law set forth in Utah Code Annotated section 52-4-1 et seq., as amended and title 11-3-6 of the City's Land Use Ordinance. Written minutes of all meetings of the Appeals and Variance Hearing Officer shall be prepared and filed in the office of the City Recorder for review and access by the public in accordance with Utah State Law.

3. Upon completion of a hearing decisions made by the Appeals and Variance Hearing Officer shall become effective when a timely written decision is made.

~~2-4-2: Organization; Meetings: The board of adjustment shall annually elect a chairperson and vice chairperson, and adopt rules in accordance with the provisions of this title. Meetings of the board shall be held as necessary to hear applications for variances or appeals, or at the call of the chairperson at such other times as may be necessary. The vice chairperson may, in the absence of the chairperson, fulfill the duties of the chairperson at any meeting. All meetings of the board shall comply with Utah Code Annotated section 52-4-1 et seq. The board shall keep minutes of its proceedings showing the vote of each member on each issue or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the city recorder and shall be a public record.~~

~~2-4-23: Powers And Duties: Pursuant to the Utah Code, Municipal Land Use, Development, and Management Act, Bluffdale City is required to establish one or more appeal authorities to hear and decide variances and appeals regarding land use ordinances. The Board of Adjustment Appeals and Variance Hearing Officer is acting as the appeal authority as outlined below. The board of adjustment Appeals and Variance Hearing Officer shall have the following powers to hear and decide:~~

~~A. To authorize, upon appeal, such variance from the terms of title 11 in accordance with section 11-3-5 Requests for variances from the terms of the City's land use ordinances.-~~

~~B. To hear and decide appeals of determinations made by a city official in the enforcement, administration or interpretation of title 11, in accordance with section 11-3-5. Appeals from decisions applying the City's land use ordinances; and~~

2-4-3: Ex Parte Contact:

A. Ex parte contact between the Appeals and Variance Hearing Officer and opposing parties involved in litigation with the city involving land use issues shall be prohibited. The Appeals and Variance Hearing Officer shall not participate in site or office visits, electronic communication, written

communication or verbal conversation, either face to face or over the telephone, with any individual or any representative of a company or entity involved in legal proceedings with the city involving land use issues. This prohibition shall include plaintiffs who have filed suit against the city, claimants who have served a notice of claim on the city, and defendants in actions filed by the city, such as those in violation of provisions of this title.

B. The Appeals and Variance Hearing Officer shall be restricted from ex parte contact, including site or office visits, electronic communication, written communication and verbal conversation, either face to face or over the telephone, with any individual or representative of a company or entity when such interaction involves a request for hearings, variances, or appeals of administrative decisions. This restriction on ex parte contact applies to all variances or appeals of administrative decisions, after an application for such is filed with the city, while the application is under review by the Appeals and Variance Hearing Officer or while the application is under appeal, if an appeal is filed. The Appeals and Variance Hearing Officer shall not participate in ex parte contact with individuals or representatives of a company or entity opposed to a request for a hearing, variance, or appeal of administrative decision. All requests for variances or appeals shall be processed and reviewed in accordance with section 11-3-4.

2-4-4: Stay Of Appeal Proceedings: An appeal to the Appeals and Variance Hearing Officer shall not stay proceedings taken in furtherance of the action appealed from unless such proceedings are specifically stayed by order of the Zoning Administrator. An appellant may request a stay by submitting to the Zoning Administrator, in writing, an application for a stay setting forth the reasons why a stay is necessary to protect against imminent harm. In determining whether or not to grant a stay, the Zoning Administrator shall assure that all potentially affected parties are given the opportunity to comment on the request. A ruling on the request for a stay shall be given within five (5) calendar days from the date the request is received by the Zoning Administrator. The Zoning Administrator, in granting a stay, may impose additional conditions to mitigate any potential harm that may be caused by the stay, including requiring the appellant to post a bond. Within ten (10) calendar days of the Zoning Administrator's decision regarding the grant or denial of a stay, any aggrieved party may appeal the decision to the Appeals and Variance Hearing Officer, whose decision will be final.

11-2-2: GENERAL DEFINITIONS:

The following definitions are specific to this title. If there is occasion to need interpretation of any word or phrase not listed below, the Zoning Administrator shall provide the interpretation.

CONDITIONAL USES: A use which has been specifically permitted by the terms of this title and which requires special consideration by the ~~board of adjustment, p~~Planning e~~C~~ommission ~~or city council~~ before a permit therefor may be issued.

SUBSTANTIAL CONSTRUCTION OR DEVELOPMENT: Site improvements beyond grading that include physical construction structures.

11-3-4: VARIANCE AND APPEAL PROCEDURES, APPLICATION NOTICE REQUIREMENTS:

A. Variance Procedures:

1. The ~~board of adjustment~~ Appeal Authority may authorize, upon application, such variances from the terms of this title as will not be contrary to the public interest where, owing to special conditions, the literal enforcement of the provisions of this title will result in unnecessary hardship; provided that the spirit of the title shall be observed and substantial justice done. In determining whether or not a variance should be granted, the ~~board of adjustment~~ Appeal Authority shall strictly adhere to the following standards of review:
 - (i.) Any person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the applicable appeal authority for a variance from the terms of the ordinance.
 - (ii)
 - (a) The ~~a~~ Appeal a Authority may grant a variance only if:
 - (i) literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;
 - (ii) there are special circumstances attached to the property that do not generally apply to other properties in the same zone;
 - (iii) granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;
 - (iv) the variance will not substantially affect the general plan and will not be contrary to the public interest; and
 - (v) the spirit of the land use ordinance is observed and substantial justice done.
 - (b)
 - (i) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the ~~a~~ Appeal a Authority may not find an unreasonable hardship unless the alleged hardship:
 - (A) is located on or associated with the property for which the variance is sought; and
 - (B) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
 - (ii) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the ~~a~~ Appeal a Authority may not find an unreasonable hardship if the hardship is self-imposed or economic.
 - (c) In determining whether or not there are special circumstances attached to the property under Subsection (2)(a), the ~~a~~ Appeal a Authority may find that special circumstances exist only if the special circumstances:
 - (i) relate to the hardship complained of; and
 - (ii) deprive the property of privileges granted to other properties in the same zone.
 - (iii) The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
 - (iv) Variances run with the land.
 - (v) The ~~a~~ Appeal a Authority may not grant a use variance.
 - (vi) In granting a variance, the ~~a~~ Appeal a Authority may impose additional requirements on the applicant that will:
 - (a) mitigate any harmful ~~e~~ effects of the variance; or
 - (b) serve the purpose of the standard or requirement that is waived or modified.
2. Applications for variance shall be filed with the planning department. Said application shall contain the following information:
 - a. A description for the requested variance, together with a description of that ordinance provision for which relief is being requested and why such is in accordance with the standards outlined in Section A.1. above.

- b. An accurate plot plan, where appropriate, indicating the manner in which the variance will be applied and its effect on adjacent properties.
 - c. A ~~filing~~ application fee as set by the eCity eCouncil.
3. Upon receipt of the application by the planning department, a copy with all accompanying materials shall be forwarded to the ~~board of adjustment~~ Appeal Authority for its action. In accordance with section 2-4-3 any and all communication regarding the application shall be directed to the Zoning Administrator, or designee, not to the Appeal Authority. The ~~board of adjustment~~ Appeal Authority shall hold a meeting to review the request and take appropriate action upon the request. Notices for variance meetings shall follow the procedure set-forth in section 11-3-6 of this chapter.
4. The ~~board of adjustment~~ Appeal Authority after conducting the public meeting, shall then make findings conforming to subsection B of this section. ~~The concurring vote of at least three (3) members shall be necessary to grant or deny a requested variance in accordance with, the standards outlined in Section A.1. above.~~ The ~~board of adjustment~~ Appeal Authority may impose such reasonable conditions as will:
- a. mitigate any harmful effects of the variance; or
 - b. serve the purpose of the standard or requirement that is waived or modified.
5. The decision of the ~~board~~ Appeal Authority takes effect on the date when the ~~board~~ Appeal Authority issues a written decision. The Appeal Authority shall decide all appeals and other issues brought before it within a reasonable time.

B. Appeals Of Administrative Decisions And Determinations:

1. Appeal Procedure:

- a. Any person or entity may appeal to the ~~board of adjustment~~ Appeal Authority any final order, requirement, decision or determination made by a ~~city official~~ land use authority in the enforcement, administration or interpretation of this title. Only a decision in which a land use authority has applied a land use regulation to a particular land use application, person, or parcel may be appealed to ~~the~~ an ~~a~~ Appeal a Authority.
The ~~board of adjustment~~ Appeal Authority shall:
 - (i) hear appeals and make decisions consistent with this section and;
 - (ii) hear and decide appeals from administrative decisions of the historic preservation authority.
 - (iii) determine the correctness of the land use authority's interpretation and application of the plain meaning of the land use regulations
 - (iv) interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application.
- b. The ~~board~~ Appeal Authority shall act in a quasi-judicial manner; and serve as the final arbiter of issues involving the interpretation or application of land use ordinances; and may not entertain an appeal of a matter in which the appeal authority, ~~or any participating member,~~ had first acted as the land use authority.
- c. The appellant or agent shall make an appeal on a form provided by the city and shall

include all appropriate information. The appellant has the burden of proving that the land use authority erred. In accordance with section 2-4-3 any and all communication regarding the appeal shall be directed to the Zoning Administrator, or designee, not to the Appeal Authority.

- d. ~~The board of adjustment acting as t~~The Appeal aAuthority shall review the matter and will defer to the original land use authority's determination of factual matters. All evidence considered during the appeal shall be limited to what was included on the record when the original determination was made. The appeal authority shall determine whether the record on appeal includes substantial evidence for each essential finding of fact. The appeal authority shall:
- a) determine the correctness of the land use authority's interpretation and application of the plain meaning of the land use regulations; and
 - b) interpret and apply a land use regulation to favor a land use application unless the land use regulation plainly restricts the land use application.
 - c) An appeal authority's land use decision is a quasi-judicial act.
- e. ~~The board of adjustment~~Appeal Authority shall set a meeting on the appeal ~~as soon as practicable after receiving and reviewing the appeal~~as soon as practicable after receiving and reviewing the appeal ~~their next available board meeting.~~
In exercising its powers, the ~~board of adjustment~~Appeal Authority may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination of the land use authority in question as ought to be made, and to that end shall have all of the powers of the enforcement of this title. ~~The concurring vote of at least three (3) members of the board shall be necessary to reverse any order, requirement, decision or determination, or to decide in favor of the appellant on any matter upon which it is required to pass under such ordinance.~~
- f. The decision of the Appeal Authority ~~board~~ takes effect on the date when the ~~board~~ Appeal Authority issues a written decision; ~~and shall decide all appeals and other issues brought before it within a reasonable time.~~

2. Time Limitation to file an Appeal: An appeal of a decision administering or interpreting the land use ordinance shall be submitted to the city within ten (10) calendar days from the date of the final decision taken by the Land Use Authority.

C. Appeals From ~~Board Of Adjustment~~Appeal Authority: The city or any person adversely aggrieved by a decision of the ~~board of adjustment~~Appeal Authority, may have and maintain a plenary action for relief therefrom in any court of competent jurisdiction, provided petition for such relief is presented to the court within thirty (30) calendar days after the date of such decision.

11-3-65: CITY STAFF:

Members of the city staff shall provide necessary information to the ~~e~~City eCouncil, ~~p~~lanning ~~e~~Commission and ~~board of adjustment~~ Appeal Authority in regard to this title. The city ~~e~~ouneil may hire additional staff or consultants to provide necessary information. The ~~e~~City ~~r~~Recorder, or designee, shall prepare agendas and take minutes of meetings.

(Ord. 10-24-00-1, 10-24-2000)

11-3-76: NOTICE REQUIREMENTS AND PUBLIC HEARINGS:

A. Procedure: All notice requirements and public hearing notice requirements shall satisfy state law and city ordinances or resolutions. The public notice shall contain ample information to allow the general public to determine what action is being proposed, a short description of the proposal, the time, date and location of the public hearing, the type of input being requested by the city, and where additional information, if any, may be obtained. ~~Actions which require a public hearing~~Applications are and shall be noticed in the following manner:

~~1. Planning Commission Hearings; Notice To Applicant: An applicant for any action before the planning commission requiring a public hearing shall be notified of the date, time and place of the public hearing and public meetings where their application shall be heard.~~

~~2. Adoption Or Amendment Of General Plan:~~

~~a. Public Hearing: Each notice of a public hearing to adopt or amend the general plan shall provide the date, time and place of the public hearing and be noticed as follows at least ten (10) calendar calendar days before the hearing:~~

~~(1) Published in a newspaper of general circulation in the city. The publication date, not the date of the submission to the newspaper, must satisfy the ten (10) day notice requirement.~~

~~(2) Mailed to each public entity or utility which is affected by the proposed general plan or amendment.~~

~~(3) Posted in at least three (3) public locations within the city or on the city website.~~

~~b. Public Meeting: Each public meeting to consider on the adoption or amendment of the general plan shall be noticed by submitting a notice of the date, time and place of the meeting to a newspaper of general circulation in the city and posted in at least three (3) public locations within the city or on the city website at least twenty four (24) hours before the meeting.~~

~~3. Adoption Or Amendment To Land Use Ordinance:~~

~~a. Public Hearing: Each notice of public hearing to adopt or amend the land use ordinance shall provide the date, time and place of the public hearing and be noticed as follows at least ten (10) calendar calendar days before the hearing:~~

~~(1) Mailed to each public entity or utility affected by the adoption or amendment of the land use ordinance.~~

(2) Posted in at least three (3) public locations within the city or on the city website.

(3) Mailed at least three (3) calendar days before the date of the hearing to each property owner whose land is directly affected by the adoption or amendment of the land use ordinance and each adjacent property owner within one thousand feet (1,000') of the proposal.

(4) Mail notice to the Utah automated geographic reference center, the state planning coordinator and the Wasatch Front regional council.

b. Public Meeting: Each notice of a public meeting to consider adoption or amendment of the land use ordinance shall be posted in at least three (3) public locations within the city or on the city website at least twenty four (24) hours before

<u>LAND USE DECISION</u>	<u>TIME</u>	<u>NOTICE TYPE</u>
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<p><u>Preparation, Adoption or Amendments of the General Plan or General Plan Map</u></p>	<p>A. <u>Upon inception of the initial process to generally plan or the process for any comprehensive plan amendment</u></p> <p>B. <u>10 calendar days prior to first public hearing</u></p> <p>C. <u>24- hour notice of each public meeting</u></p>	<p><u>(1) notice of the date, time, and place of the first public hearing to consider the original adoption or any modification of all or any portion of a general plan; and notice of each public meeting on the subject.</u></p> <p><u>(2) notice of a public hearing must be published in a newspaper of general circulation in the area; and published on the Utah Public Notice Website; mailed to each affected entity; and posted in at least three public locations within the municipality; or on the municipality's official website.</u></p> <p><u>(3) notice of a public meeting must be published in a newspaper of general circulation in the area; and published on the Utah Public Notice Website; mailed to each affected entity; and posted in at least three public locations within the municipality; or on the municipality's official website.</u></p> <p><u>(4) in the case of an amendment to the general plan map, an additional notice shall be mailed to all record owners of property within 1,000' of the parcel(s) or property(ies) being considered for amendment.</u></p>
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Adoption or Amendments of the Land Use Ordinances or Zoning Map (rezone)

A. 10 calendar days prior to first public hearing

(1) mailed to each affected entity at least 10 calendar days before the public hearing; posted in at least three public locations within the municipality; or on the municipality's official website; and published in a newspaper of general circulation in the area at least 10 calendar days before the public hearing; and published on the Utah Public Notice Website, at least 10 calendar days before the public hearing; or mailed at least 10 calendar days before the public hearing to each property owner whose land is directly affected by the land use ordinance change; and each adjacent and nearby property owner within 1,000'.

B. Additional Notice

(2) For zoning map or map amendment: Additional notice to each owner of private real property whose property is located entirely or partially within the proposed map. Must state that owner has 10 calendar days after 1st public hearing to file a written objection to the legislative body.

C. Public Meeting

(3) notice of a public meeting must be published in a newspaper of general circulation in the area; and published on the Utah Public Notice Website; mailed to each affected entity; and posted in at least three public locations within the municipality; or on the municipality's official website.

<p><u>Annexation Policy Plan</u></p>	<p>A. <u>14 calendar days prior to first public meeting</u></p> <p>B. <u>14 calendar days prior to first public hearing</u></p> <p>C. <u>Within 30 calendar days after adopting plan</u></p>	<p>(1) <u>provide notice of the public meeting to each affected entity at least 14 calendar days before the meeting; accept and consider any additional written comments from affected entities until 10 calendar days after the public meeting.</u></p> <p>(2) <u>provide reasonable public notice, including notice to each affected entity submit its recommended annexation policy plan to the municipal legislative body.</u></p> <p>(3) <u>The legislative body shall submit a copy of the plan to the legislative body of each county in which any of the municipality's expansion area is located.</u></p> <p>(4) <u>provide a copy of adopted plan to the County</u></p>
<p><u>Appeal of a Permit Decision</u></p>		<p><u>Notify the applicant of the date, time, and place of each public hearing and public meeting to consider the application; provide to each applicant a copy of each staff report regarding the applicant or the pending application at least three business calendar days before the public hearing or public meeting; and notify the applicant of any final action on a pending application.</u></p>
<p><u>Amendment to public improvement standard in subdivision or development requirement ordinance</u></p>	<p><u>30 calendar day notice prior to implementing an amendment to adopted specifications for public improvements that apply to subdivision or development.</u></p>	<p><u>Mailed notice and an opportunity to comment to anyone who has requested the notice in writing.</u></p>

<p><u>Conditional Use Permit</u></p>	<p><u>See Land Use Application</u></p> <p>Additional Notice:</p>	<p><u>City will mail out notice to adjacent and nearby property owners within 1,000'</u></p>
<p><u>Land Use Application</u></p>	<p><u>3 calendar days before meeting or hearing and final action on application</u></p>	<p><u>Notify the applicant of the date, time, and place of each public hearing and public meeting and application; provide to each applicant a copy of each staff report or documentation regarding the applicant or the pending application at least three business calendar days before the public hearing or public meeting and notify them of any final action on a pending application</u></p>
<p><u>Nonconforming Uses/Non-Complying Structures</u></p>	<p><u>See Land Use Application</u></p>	

<p><u>Preliminary Subdivision Plat Approval</u></p>	<p>A. <u>10 calendar days prior to public meeting</u></p> <p>B. <u>Additional Notice</u></p>	<p><u>(1) Posted Notice: The staff shall post notice of subdivision approvals in accordance with state law on the city's website.</u></p> <p><u>(2) As a courtesy to property owners, the applicant shall provide the city with stamped and preaddressed envelopes for each owner of record of each parcel located entirely or partly within five hundred feet (500') from any boundary of the property subject to the application, together with a mailing list for those owners. The addresses shall be as shown on the most recently available Salt Lake County tax assessment rolls. The courtesy notice shall state that an application has been filed, the nature of the application or action, and the time, place and date set for a public hearing on the matter.</u></p>
<p><u>Subdivision Plat Approval or Amendment within 100' of a Canal</u></p>	<p><u>Within 20 calendar days after application is filed</u></p>	<p><u>Certified or registered letter to canal operator. Must wait 20 calendar days after notice to take final action on item.</u></p>
<p><u>Vacating or amending a Subdivision Plat</u></p>	<p><u>10 calendar days prior to public meeting. If public hearing is required due to exceptions, then 10 calendar day notice is required.</u></p>	<p><u>Notice mailed to each affected entity that provides a service on a portion of the plat being vacated or amended pursuant to Utah Code Annotated 10-9a-608.</u></p>

<p><u>Vacating some or all of a public street, right of way or easement</u></p>	<p><u>10 calendar days prior to public hearing.</u></p>	<p><u>Mailed to the record owner of each parcel that is accessed by the public street, right-of-way, or easement; mailed to each affected entity; Posted on or near the street, right-of-way, or easement in a manner that is calculated to alert the public; and Published in a newspaper of general circulation in the municipality in which the land subject to the petition is located and published on the Utah Public Notice Website pursuant to Utah Code Annotated 10-9a-208.</u></p>
<p><u>Variiances</u></p>	<p><u>See Land Use Application</u></p>	

B. Costs: Any costs associated with the provisions of the notice requirements herein shall be the responsibility of the proponent of the action. If notice given under authority of this section is not challenged as provided by state law within thirty (30) calendar days from the date of the meeting for which notice was given, the notice is considered adequate and proper. (~~Ord. 2005-15, 7-12-2005~~)

C. Applicant notice. Waiver of requirements: For each land use application, the city shall:

(a) notify the applicant of the date, time, and place of each public hearing and public meeting to consider the application;

(b) provide to each applicant a copy of each staff report regarding the applicant or the pending application at least three business calendar days before the public hearing or public meeting; and

(c) notify the applicant of any final action on a pending application.

(d) If a municipality fails to comply with the requirements of Subsection (1)(a) or (b) or both, an applicant may waive the failure, verbally or in writing at the meeting, so that the application may stay on the public hearing or public meeting agenda and be considered as if the requirements had been met.

11-3-87: AMENDMENTS TO LAND USE ORDINANCE AND MAP:

The eCity eCouncil after a recommendation from the Planning Commission, using its legislative discretion, may amend the number, shape, boundary or area of any zoning district. The eCity eCouncil may also amend any regulation or other provisions of a zoning district. The amendments may only occur in accordance with the following procedure: (~~Ord. 2005-15, 7-12-2005~~)

- A. Submission: Any person, including staff, the pPlanning eCommission or eCity eCouncil, seeking an amendment to this title or zoning map shall submit to the planning commission, on forms provided by the city, the following:
 - 1. A description of the specific amendment to this title or zoning map.
 - 2. The reason and justification for the proposed amendment and how the proposed amendment would further the purpose and intent of this title, and how the proposed amendment is consistent with the general plan. If the proposed amendment is inconsistent with the general plan, the applicant shall submit, concurrently with the amendment application, an application for amendment to the general plan.
 - 3. Supporting documentation, maps, studies and any other information that would allow the eCity eCouncil to make a well- informed decision.
 - 4. The payment of the appropriate fee in accordance with the city fee schedule.
- B. Recommendation Of Planning Commission: Upon receipt by the pPlanning eCommission of the proposed amendment, the Planning eCommission shall hold a public hearing in accordance with section 11-3-~~76~~ of this chapter. Following the public hearing, the pPlanning eCommission shall forward a recommendation to the eCity eCouncil on the proposed amendment.
- C. City Council Action: The eCity eCouncil shall hold a public hearing on the proposed amendment in accordance with section 11-3-~~76~~ of this chapter. The eCity eCouncil may approve, amend and approve, remand the proposed amendment back to the pPlanning eCommission for further review, or deny the proposed amendment. (~~Ord. 10-24-00-1, 10-24-2000~~)

11-3-98: RELATIONSHIP TO OTHER ORDINANCES:

This title is intended to be consistent with all other laws, ordinances and resolutions of the city, specifically including, but not limited to, the following:

- A. The city general plan and general plan map.
- B. The city subdivision ordinance.
- C. The city design guidelines and standard specifications. (~~Ord. 10-24-00-1, 10-24-2000~~)

11-3-109: DEVELOPMENT APPLICATIONS:

- A. Required: A development application shall be required for approval of all proposed development reviewed under this title, including additions to existing buildings and temporary uses. All development applications are available from the ~~city recorder~~ Zoning Administrator. The city is not obligated to act on any application that is not complete or does not contain all of the information required ~~herein~~.
- B. The Zoning Administrator, or designee, initially reviews all complete applications requiring action by the Planning Commission and makes recommendations to the Planning Commission and/or City Council, according to the type of application filed. The Zoning Administrator may process one (1) application at a time, per property or may process coordinated applications simultaneously. The Zoning Administrator, or designee, may recommend to the Planning Commission certain conditions of approval to applications for conditional use permits. The Zoning Administrator, or designee, issues permits for administrative uses and administrative lot line adjustments.
- C. The Planning Commission issues permits for conditional uses. The Building Official issues building permits. The Business License Official issues business licenses. The City Council issues permits for subdivisions and site plans including a building footprint of 15,000 square feet or more or requiring 50 or more parking stalls.
- D. The Planning Commission reviews, holds a public meeting or hearing and forwards a recommendation to the City Council regarding, each application for subdivision approval, subdivision plat amendment, initial zoning, rezoning, condominium record of survey, and amendments to this chapter and to the general plan.
- E. The Appeals and Variance Hearing Officer, acting as the land use authority, hears all requests for variances, and, acting as the appeal authority, hears appeals of conditional uses and administrative zoning determinations.
- F. No review shall occur until all applicable fees are paid.
- B. G. Applicability Of Subdivision Ordinance: Any application for a subdivision shall also satisfy the applicable requirements of the subdivision ordinance. Review of land use requirements and subdivision approval may be completed concurrently.
- C. H. Requirements Fulfilled Prior To Activity: No use, development or development activity may be commenced until all necessary approvals, permits and licenses have been issued in accordance with the provisions of this title, and all required fees have been paid by the applicant. (~~Ord. 10-24-~~ 00-1, 10-24-2000)
- I. REVIEWING BODIES. The Zoning Administrator (ZA) or designee, the Appeals and

Variance Hearing Officer (AVHO), the Planning Commission (PC), and the City Council (CC) each have the following primary authority to review applications for compliance with this Chapter, unless specified differently by ordinance or development agreement:

<u>Type of Review</u>	<u>Zoning Administrator or Designee</u>	<u>PC</u>	<u>CC</u>	<u>AVHO</u>	<u>Appeal Authority</u>
<u>Concept Plan</u>	X				
<u>Lot Line Adjustment</u>	X				
<u>Lot Line Adjustment Appeal</u>					<u>AVHO</u>
<u>Preliminary Subdivision Plat</u>	X	X	X		
<u>Final Subdivision Plat</u>	X	X	X		
<u>Final Subdivision Plat Appeal</u>					<u>District Court</u>
<u>Plat Amendment</u>	X	X	X		<u>District Court</u>
<u>Site Plan (minor)</u>	X	X			
<u>Site Plan (major)</u>		X	X		
<u>Site Plan Appeal</u>					<u>AVHO</u>
<u>Business License Use Review</u>	X				<u>AVHO</u>
<u>Conditional Use</u>	X	X			
<u>Conditional Use Appeal</u>	X				<u>AVHO</u>
<u>Street Dedication Plat</u>	X	X	X		
<u>Street Dedication Plat Appeal</u>	X				<u>AVHO</u>
<u>Variance</u>				X	<u>District Court</u>
<u>Land Use Ordinance Text Amendment</u>	X	X	X		<u>District Court</u>
<u>Land Use Ordinance Text Amendment Appeal</u>					
<u>Zoning Map Change (Rezone)</u>	X	X	X		
<u>Zoning Map Change (Rezone) Appeal</u>	X				<u>District Court</u>

<u>Appeal</u>					
<u>General Plan Amendment</u>	<u>X</u>	<u>X</u>	<u>X</u>		
<u>General Plan Amendment Appeal</u>	<u>X</u>				<u>AVHO</u>
<u>Home Occupation</u>	<u>X</u>				
<u>Home Occupation Appeal</u>					<u>AVHO</u>
<u>Home Occupation Extra</u>		<u>X</u>			<u>AVHO</u>
<u>Employees (CUP)</u>					
<u>Sign Permit</u>	<u>X</u>				
<u>Sign Permit Appeal</u>	<u>X</u>				<u>AVHO</u>

11-3-410: TERMINATION OF APPLICATION:

A. Sixty Day Limitation; Extension: If a request of the eCity eCouncil, pPlanning eCommission, board of adjustment Appeal Authority, or staff has not been responded to within sixty (60) calendar days of the written request, the application may be terminated. The city council Zoning Administrator or designee may extend this deadline, or reinstate the application upon request by the applicant, if valid reasons are provided such as financial, legal, or circumstances clearly preventing the applicant from responding.

B. Construction, Development Within One Year: An application will be considered null and void if substantial construction or development has not occurred in connection with the application within one year of final approval.

C. Resubmission Upon Termination: Should the application be terminated, the applicant shall be required to resubmit the application and shall satisfy all requirements in place at the time of resubmission, including the payment of fees. (Ord. 10-24-00-1, 10-24-2000)

11-3-1211: TEMPORARY REGULATIONS: ENTITLEMENTS, VESTING, TEMPORARY REGULATIONS

A. Authority: In accordance with Utah Code Annotated section 10-9a-504, as amended, the city council may, without a public hearing, enact ordinances establishing temporary land use

regulations for any part or all of the area within the municipality. (Ord. 10-24-00-1, 10-24-2000; ~~amd. 2013 Code~~) Land use applications:

(1)(a) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the city's zoning map and applicable land use ordinance in effect when a complete application is submitted and all fees have been paid, unless:

- (i) the governing body, on the record, finds that a compelling, countervailing public interest would be jeopardized by approving the application; or
 - (ii) in the manner provided by local ordinance and before the application is submitted, the municipality has formally initiated proceedings to amend its ordinances in a manner that would prohibit approval of the application as submitted.
- (b) An application for a land use approval is considered submitted and complete when the application is provided in a form that complies with the requirements of applicable ordinances and all applicable fees have been paid.
- (c) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.
- (d) The city shall not impose on a holder of an issued land use permit a requirement that is not expressed:
- (i) in the land use permit or in documents on which the land use permit is based; or
 - (ii) in the city's ordinances.

(2) The city will not withhold issuance of a certificate of occupancy because of an applicant's failure to comply with a requirement that is not expressed:

- (i) in the building permit or in documents on which the building permit is based;
- or
- (ii) in the city's ordinances.

(3) The city is bound by the terms and standards of applicable land use ordinances and shall comply with mandatory provisions of those ordinances.

~~C. Time Period: The city council shall establish a period of limited effect of the temporary regulations not to exceed six (6) months. (Ord. 10-24-00-1, 10-24-2000)~~

11-3-12 EXACTIONS

The City may impose an exaction or exactions on proposed land use development if:

- (1) an essential nexus exists between a legitimate governmental interest and each exaction; and
- (2) each exaction is roughly proportionate, both in nature and extent, to the impact of the proposed development.

11-3-133: ZONING ADMINISTRATOR:

- A. Appointment: The eCity manager shall designate a staff person who shall be primarily responsible for administering and enforcing this title. Such person shall be known as the Zoning Administrator.
- B. Interpretation: The Zoning Administrator shall act as the land use authority to interpret the ordinance to members of the public, city departments, and to other branches of government, subject to general and specific policies established by the planning commission and city council. The Zoning Administrator shall seek advice from other city administrative staff as necessary. Upon request, the Zoning Administrator shall make a written interpretation of the text of this title pursuant to chapter 36 of this title.
- C. Administrative Duties: The Zoning Administrator shall act as the land use authority to accomplish or cause to be accomplished all administrative actions required by this title, including the giving of notice, holding of hearings, preparation of staff reports, and receiving and processing applications of variances and appeals. (Ord. 2014-19, 12-17-2014). The Zoning Administrator, or designee, may issue administrative conditional use permits, as a land use authority, or may recommend to the planning commission certain conditions of approval to applications for conditional use permits. The Zoning Administrator, or designee, issues permits for administrative uses, administrative lot line adjustments, and site plans for projects with less than 15,000 square feet of floor space and less than 50 required parking spaces and conducts permitted use reviews.