

ORDINANCE NO. 2022-20

AN ORDINANCE AMENDING HEBER CITY CODE CHAPTER 18.76 LANDSCAPING, CHAPTER 18.109 FLOOD DAMAGE PREVENTION AND CHAPTER 18.116 ANNEXATION.

BE IT ORDAINED by the City Council of Heber City, Utah, Heber City Municipal Code Chapter 18.76 Landscaping, is hereby *AMENDED* to read as follows.

18.76 Landscaping

18.76.010	Purpose of Provisions
18.76.020	Scope of Requirements
18.76.030	Landscape Standards
18.76.040	Maintenance
18.76.050	Screening Requirements
18.76.060	Multi Family and Non Residential Plot Plan Required
18.76.070	Street Tree Planting Requirement
18.76.080	Right Of Way Landscaping
18.76.090	Parking In Landscaped Areas

18.76.010 Purpose of Provisions

The purpose of the landscaping requirements in this chapter shall be to conserve water supply and enhance property values by encouraging pleasant and attractive surroundings and thus create the necessary atmosphere for the orderly development of Heber City. Landscaping also contributes to the relief of heat, noise and glare through the proper placement of green plants and trees.

18.76.020 Scope of Requirements

Where landscaping is required, such landscaping shall comply with the requirements set forth in this chapter. Where there may be contradicting landscaping provisions between this chapter and other sections of code, the greater requirement shall apply.

18.76.030 Landscape Standards

A. General Provisions:

1. The absence of any landscaping (bare ground, dirt) is prohibited.
2. Xeriscaping is permitted in all zones.
3. Natural landscaping using plants found locally that are drought resistant are permitted for required yard spaces and open space areas.
4. Vegetation coverage is measured by the area of the plant at full seasonal coverage.

Trees do not account for this area. Areas with non-living landscaping materials that are greater than 200 square feet shall include at least one tree for shade to reduce summer heat gain.

5. Landscaped areas such as park strips, that are less than 8' wide shall only use drip/point source irrigation systems and shall contain 100% xeriscape designs.
6. Water-wise designs are required, using drip/point source irrigation systems wherever possible.
7. Water from roofs, driveways, and parking lots shall be contained on site to the greatest extent possible.
8. Healthy trees that are drought tolerant are encouraged to be preserved.
9. Stormwater catchment basins and/or ponds are exempt from these general provision requirements.
10. Existing front and corner lot yards shall meet the standards of this Section upon redevelopment of the property.

B. Non-Residential and Multi-Family Residential Standards.

1. A minimum of 20% of landscaped areas shall be planter beds, containing a combination of rock or bark mulch, trees, shrubs, and ornamental grasses.
2. A minimum of 40% of all landscaped areas shall be covered with planted vegetation.
3. Community Gardens may be counted toward a landscaping and/or open space requirement for Multi-Family Residential developments.
4. Automated water-wise irrigation systems are required and shall include a Water Sense labeled smart irrigation controller which automatically adjusts the frequency and/or duration of irrigation events in response to changing weather conditions. All controllers shall be equipped with automatic rain delay or rain shut-off capabilities
5. Landscaping shall be completed prior to the issuance of a Certificate of Occupancy. For phased developments, the landscaping within each phase shall be completed with the phase.
6. No more than 20% of any front yard, including both yards on a corner, shall be landscaped with turf/lawn. Non-turf areas are required to be watered via a drip system. Decorative pools/ponds/or streams are discouraged and are limited to no more than 5% of a lot. This standard does not apply to recreational activity areas.
7. A landscaping bond may be used during non-growing seasons, as determined by the Planning Director or designee. Landscaping shall be completed, and assurances established prior to a Certificate of Occupancy is granted as per Utah State Code Section 10-9a-509 (i) et seq. Bonds shall cover 110% of the costs of the bond estimate included in the bond agreement executed with the City.

C. Single Family Residential Standards.

1. In any residential or residential-agricultural zone, all portions of the required front and side yards adjacent to a street that are not covered by permitted structures, driveways or pedestrian paths shall be landscaped. No more than 35% of any front yard, including both yards on a corner, shall be landscaped with turf/lawn. Non-turf areas are required to be watered via a drip system. No turf/lawn is allowed on slopes greater than 50% (2:1 grade). Decorative pools/ponds/or streams are discouraged and are limited to no more than 5% of a lot.

2. Required landscaping shall be installed within 24 months of the date of receiving an occupancy permit for the property.
3. A minimum of 50% of the front and street side yards shall be covered with planted vegetation at the time of maturity.

18.76.040 Maintenance

Required landscaped areas shall be maintained in a neat, clean, orderly and healthful condition. This is meant to include proper pruning, mowing lawns, weeding, removal of litter, fertilizing and replacement of dead plants and the regular watering of all plantings to assure their continued viability.

18.76.050 Screening Requirements

Where landscaped screening is required, said screening shall consist of groundcovers, non-living mulches, a mixture of evergreen shrubs and medium sized trees planted on 30' centers. The shrubs and trees shall be planted to create a visual barrier over time. When not otherwise specified, natural screening shall be maintained at a height of from four to six feet.

18.76.060 Multi Family and Non-Residential Development Plot Plan Required

Where landscaping is provided for multi-family residential and non-residential developments in this title, a plot plan showing the proposed landscape development, efficient water-wise irrigation system and use of the property shall be submitted to the Planning Director. See Plot Plan application/checklist available online and at the City Offices. The same plot plan used to show parking layout or other requirements for the issuance of a building permit may be used to show landscaping providing all proposed landscaping is detailed adequately on said plot plan. See 18.72 Off-Street Parking and Loading. The Planning Director may deny or suggest modifications of such plans if it is determined that they are not consistent with the requirements and purposes of this chapter. All plot plans shall be prepared by a licensed landscape architect, engineer, or certified landscaper installer. All plot plans shall be prepared by a licensed landscape architect, engineer, or certified landscaper installer, designed using water-wise design standards as recommended by local water conservancy districts. The City reserves the right to review plans for compliance with this section and all applicable Heber City Ordinances.

18.76.070 Street Tree Planting Requirement

In all zones and locations within Heber City, street trees, with root structures generally not shown to lift/disrupt sidewalks, shall be planted by property owners within the planter strip, or on private property in the front yard 5' from the right of way line if no planter strips exists, as part of the required landscaping. Street trees shall be planted and spaced in accordance with Chapter 12.20 of Heber City Municipal Code.

18.76.080 Right of Way Landscaping

Property owners are responsible for maintaining the landscaping within the adjoining right-of-

way and/or planter strips in accordance with Chapter 12.20 of Heber City Municipal Code.

18.76.090 Parking In Landscaped Areas

Parking is prohibited upon any required landscaping or any area that is landscaped.

BE IT ORDAINED by the City Council of Heber City, Utah, Heber City Municipal Code Chapter 18.109 Flood Damage Prevention Ordinance is hereby *AMENDED* to read as follows.

18.109 Flood Damage Prevention Ordinance

18.109.010 Statutory Authorization

18.109.020 Definitions

18.109.030 General Provisions

18.109.040 Administration

18.109.050 Provisions For Flood Hazard Reduction

18.109.10 Statutory Authorization, Findings Of Fact, Purpose And Objectives

- A. STATUTORY AUTHORIZATION. The Legislature of the State of Utah has in Utah Code Annotated 10-3-701 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.
- B. STATEMENT OF PURPOSE. It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:
 - 1. Protect human life and health;
 - 2. Minimize expenditure of public money for costly flood control projects;
 - 3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 - 4. Minimize prolonged business interruptions;
 - 5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
 - 6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
 - 7. Ensure that potential buyers are notified that property is in a flood area.
- C. METHODS OF REDUCING FLOOD LOSSES. In order to accomplish its purposes, this ordinance uses the following methods:
 - 1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
 - 2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 - 3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
 - 4. Control filling, grading, dredging and other development which may increase

- flood damage;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

18.109.020 Definitions

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance it’s most reasonable application.

- A. ALLUVIAL FAN FLOODING - means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.
- B. APEX - means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.
- C. AREA OF SHALLOW FLOODING - means a designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- D. AREA OF SPECIAL FLOOD HAZARD - is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. 44 C.F.R. 64 defines the specific special flood hazard areas as follows:

Zone	Description
A	Area of special flood hazard without water surface elevations determined
A1-30	AE Area of special flood hazard with water surface elevations determined
A0	Area of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) feet
A99	Area of special flood hazard where enough progress has been made on a protective system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes
AH	Areas of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) feet, and with water surface elevations determined
AR	Area of special flood hazard that results from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection
V	Area of special flood hazards without water surface elevations determined, and with velocity, that is inundated by tidal floods (coastal high hazard area)
V1-30	VE Area of special flood hazards, with water surface elevations determined and with velocity, that is inundated by tidal floods (coastal high hazard area)
V0	Area of special flood hazards having shallow water depths and/or unpredictable flow paths between (1) and (3) ft. and with velocity

B, X	Areas of moderate flood hazards or areas of future-conditions flood hazard
C, X	Area of minimal hazards
D	Area of undetermined but possible, flood hazards
M	Area of special mudslide (i.e., mudflow) hazards
N	Area of moderate mudslide (i.e., mudflow) hazards
P	Area of undetermined, but possible, mudslide hazards
E	Area of special flood-related erosion hazards

- E. **BASE FLOOD** - means the flood having a one percent chance of being equaled or exceeded in any given year.
- F. **BASEMENT** - means any area of the building having its floor sub-grade (below ground level) on all sides.
- G. **CRITICAL FACILITY** - means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals police, fire and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.
- H. **CRITICAL FEATURE** - means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.
- I. **DEVELOPMENT** - means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- J. **ELEVATED BUILDING** - means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1- 30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls if the breakaway walls met the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.
- K. **FLOOD OR FLOODING** - means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland or tidal waters; or (2) the unusual and rapid accumulation or runoff of surface waters from any source.
- L. **FLOOD INSURANCE RATE MAP (FIRM)** - means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

- M. FLOOD INSURANCE STUDY - is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the Flood Boundary-Floodway Map.
- N. FLOODPLAIN OR FLOOD-PRONE AREA - means any land area susceptible to being inundated by water from any source (see definition of flooding).
- O. FLOODPLAIN MANAGEMENT - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.
- P. FLOOD PROTECTION SYSTEM - means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.
- Q. FLOOD PROOFING - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- R. FLOODWAY (REGULATORY FLOODWAY) - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
- S. FUNCTIONALLY DEPENDENT USE - means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
- T. HIGHEST ADJACENT GRADE - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- U. HISTORIC STRUCTURE - means any structure that is:
1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
 4. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
 - a. by an approved state program as determined by the Secretary of the Interior; or

- b. Directly by the Secretary of the Interior in states without approved programs.
- V. LEVEE - means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.
- W. LEVEE SYSTEM - means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.
- X. LOWEST FLOOR - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood insurance Program regulations.
- Y. NEW CONSTRUCTION - means, for the purpose of determining insurance rates, of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
- Z. RECREATIONAL VEHICLE - means a vehicle which is: built on a single chassis; 400 square feet or less when measured at the largest horizontal projections; designed to be self-propelled or permanently towable by a light-duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- AA. STRUCTURE - means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

18.109.30 General Provisions

- A. LANDS TO WHICH THIS ORDINANCE APPLIES. The ordinance shall apply to all areas of special flood hazard within the jurisdiction of Heber City.
- B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD. The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Wasatch County and Incorporated Areas, dated 2011, with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps (FIRM and FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance. Heber City automatically adopts all FEMA effective Flood Insurance Rate Maps.
- C. ESTABLISHMENT OF DEVELOPMENT PERMIT. A Development Permit shall be required to ensure conformance with the provisions of this ordinance. Such permits are issued by the Floodplain Administrator.
- D. COMPLIANCE. No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

- E. **ABROGATION AND GREATER RESTRICTIONS.** This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- F. **INTERPRETATION.** In the interpretation and application of this ordinance, all provisions shall be:
1. considered as minimum requirements;
 2. liberally construed in favor of the governing body; and
 3. deemed neither to limit nor repeal any other powers granted under State statutes.
- G. **WARNING AND DISCLAIMER OR LIABILITY.** The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.
- H. **PENALTIES FOR NONCOMPLIANCE.** No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a Class B Misdemeanor.

18.109.40 Administration

- A. **DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR.** The Heber City Engineer or its designee is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.
- B. **DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.** Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following:
1. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
 2. Review permit applications to determine whether proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
 3. Review, approve or deny all applications for development permits required by adoption of this ordinance.
 4. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.

5. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
6. Notify, in riverine situations, adjacent communities and the State Coordinating Agency prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
7. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
8. When base flood elevation data has not been provided in accordance with Section 18.109.030 B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Section 18.109.050.
9. When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
10. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).

C. PERMIT REQUIREMENTS. Application for a Development Permit shall be presented to the Floodplain Administrator on forms furnished by the City and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
2. Elevation in relation to mean sea level to which any nonresidential structure shall be flood-proofed;
3. A certificate from a registered professional engineer or architect that the nonresidential flood-proofed structure shall meet the flood-proofing criteria of Section 18.109.050 B. 2;
4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
5. Maintain a record of all such information in accordance with Section 18.109.040 B.

D. PERMIT APPROVAL OR DENIAL. Approval or denial of a Development Permit by the

Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

1. The danger to life and property due to flooding or erosion damage;
2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
3. The danger that materials may be swept onto other lands to the injury of others;
4. The compatibility of the proposed use with existing and anticipated development;
5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
7. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
8. The necessity to the facility of a waterfront location, where applicable;
9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
10. The relationship of the proposed use to the comprehensive plan for that area.

18.109.50 Provisions For Flood Hazard Reduction

A. GENERAL STANDARDS. In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
5. All new and replacement water supply systems shall be designed to eliminate infiltration of flood waters into the system;
6. New and replacement sanitary sewage systems shall be designed to eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and
7. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

B. SPECIFIC STANDARDS. In all areas of special flood hazards where base flood elevation data has been provided the following provisions are required:

1. Residential Construction - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to

at least one foot or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Section 18.109.040 C. 1. is satisfied.

2. Nonresidential Construction - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to at least one foot or above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are flood-proofed shall be maintained by the Floodplain Administrator.
3. Enclosures - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - b. The bottom of all openings shall be no higher than one foot above grade.
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
4. Recreational Vehicles - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:
 - a. be on the site for fewer than 180 consecutive days;
 - b. be fully licensed and ready for highway use; Or
 - c. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

C. STANDARDS FOR SUBDIVISION PROPOSALS.

1. All subdivision proposals including shall be consistent with Section 18.109.010 B., C. and D. of this ordinance. No mobile home developments are allowed in the floodplain.
2. All proposals for the development of subdivisions shall meet Development Permit requirements of Section 18.109.030 C., Section 18.109.040 C., and the provisions of Section 18.109.050 of this ordinance.

3. Base flood elevation data shall be generated for subdivision proposals and other proposed development which is greater than 50 lots or 5 acres, whichever is lesser.
4. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
5. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

D. **STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES).** Located within the areas of special flood hazard established in Section 18.109.030 B., are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

1. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
2. All new construction and substantial improvements of non-residential structures;
 - a. have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified);
 - or
 - b. together with attendant utility and sanitary facilities be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
3. A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Section 18.109.040 C.1, are satisfied.
4. Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters round and away from proposed structures.

E. **FLOODWAYS.** Floodways - located within areas of special flood hazard established in Section 18.109.030 B. are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

1. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge
2. If Section 18.109.050 E. 1. is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions

of Section 18.109.050.

3. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional FIRM and floodway revision through FEMA.
- F. **CRITICAL FACILITY.** Construction of new critical facilities shall be, to the extent possible, located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Flood-proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

BE IT ORDAINED by the City Council of Heber City, Utah, Heber City Municipal Code Chapter 18.116 Annexation is hereby ***AMENDED*** to read as follows.

18.116 Annexation

18.116.010 Purpose

18.116.020 Annexation Policy Plan

18.116.030 Expansion Area

18.116.040 Annexation Process

18.116.050 Annexation Petition Review after City Council Acceptance of Petition

18.116.060 Annexation Petition Submittal to Planning Commission

18.116.070 Conditions of Annexation Approval and Annexation Agreement

18.116.080 Amendments to the Annexation Agreement

18.116.010 Purpose

The annexation requirements specified in this Chapter are intended to protect the general interests and character of the community; assure orderly growth and Development of the Heber City community in terms of utilities and public services; preserve open space, enhance parks and trails; ensure environmental quality; protect entry corridors, ridgeline protection and environmentally Sensitive Lands; preserve Historic and cultural resources; create buffer Areas; protect public health, safety, and welfare; and ensure that annexations are approved consistent with the Heber City General Plan, the Heber City Annexation Policy Plan Ordinance 2021-21, Heber City Capital Facilities Plan, Chapter 18.106.030 and Utah State law.

18.116.020 Annexation Policy Plan

The Planning Commission is responsible for the creation of the Heber City Annexation Policy Plan. After creation of the document and holding one public hearing on the Plan the Planning Commission shall forward a recommendation to the City Council for a public hearing on the matter. Utah State Code 10-2-401.5 et seq. outlines the requirements for the Policy Plan.

18.116.030 Expansion Area

All properties petitioning for annexation must be identified in the Heber City Policy Plan expansion area.

18.116.040 Annexation Process

In addition to the process outlined in Sections 10-2-403 et seq of the Utah State Code Figure 1 Typical Annexation Process outlines the review process. The Heber City Annexation Guide and Heber City Annexation Petition is found at the City offices and provides guidance and application procedures for annexation petitions. The annexation timeline will vary based on each petition but generally takes between ten to fifteen months to complete the state and local requirements.

Figure 1 - Typical Annexation Process

Steps	1	2	3	4	5	6	7	8	9
Notice of Intent	█								
Annexation Petition		█							
Acceptance		█							
Certification		█	█						
Protest Period		█	█						
Planning Commission Mtg.			█	█					
Public Hearing			█	█	█				
MDA					█	█	█		
Approval						█	█	█	
Lieutenant Governor							█	█	
Record Plat								█	█

18.116.050 Annexation Petition Review after City Council Acceptance of Petition

In addition to the process outlined in Sections 10-2-403 et seq of the Utah State Code generally illustrated in Figure 1 Typical Annexation Process, the Planning Commission shall conduct a public meeting to review the petition application. If in the petition a development agreement is proposed a public hearing on the item shall be held. In either case the Planning Commission shall forward a recommendation to the City Council prior to the City Council hearing on the approval or denial of the proposed petition application.

18.116.060 Annexation Petition Submittal to Planning Commission

The applicant must submit a separate application to the Planning Commission and attend the

Planning Commission meeting(s). As part of application, submit the following:

- A. Annexation Fees as per current Heber City Consolidated Fee Schedule
- B. A conceptual development plan for the area proposed for annexation or development plans and meeting minutes for approvals granted by Wasatch County if petition seeks to retain those entitlements.
- C. A feasibility report for the following:
 1. Existing and proposed population density;
 2. Geology, geography, and topography of the area and its surroundings;
 3. Determination of islands or peninsulas remaining in the unincorporated area;
 4. Fiscal impact of the proposed annexation on the unincorporated area, other municipalities, other government entities, special districts, and school district;
 5. Current and five-year projections of demographic and economic base for the proposed annexation area and surrounding unincorporated area;
 6. Projected five-year growth for the proposed annexation area and surrounding unincorporated area;
 7. Current and five-year projections of the cost of government services for the proposed annexation area;
 8. Present and five-year projection of revenue to be received by the City resulting from the annexation; and
 9. Projected tax impact the annexation will have for the next five years on affected property owners.

18.116.070 Conditions of Annexation Approval and Annexation Agreement

The City Council shall require an annexation agreement be recorded with the annexation plat, outlining specific circumstances relating to services, transportation corridors, zoning, and other issues identified by the City during the annexation process.

18.116.080 Amendments to the Annexation Agreement

Subsequent substantive amendments to the annexation agreement are subject to review and approval by the Planning Commission and City Council with adequate public notice and recordation with the Wasatch County Recorder.

These Ordinances shall take effect immediately upon approval.

PASSED, APPROVED and ORDERED TO BE PUBLISHED BY THE HEBER CITY COUNCIL this 16th day of August 2022.

	AYE	NAY	ABSENT	ABSTAIN
Michael Johnston	<u>X</u>	_____	_____	_____
Rachel Kahler	<u>X</u>	_____	_____	_____
Ryan Stack	<u>X</u>	_____	_____	_____
D. Scott Phillips	<u>X</u>	_____	_____	_____
Yvonne Barney	<u>X</u>	_____	_____	_____

APPROVED:

Heidi Franco
Mayor Heidi Franco

ATTEST:

Stina W. Looke Date: 8/16/2022
RECORDER